

A-1881-TC

EXTENSION GOODS AND WARES REVOCABLE LICENSE AGREEMENT

THIS AGREEMENT is made and entered into as of the date set forth below by and between the City of Atlantic City (the "City"), having an address at 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401 and Smoke & Grape (Ali Zulfizar) (the "Licensee"), having an address at 1729 **Boardwalk**, Atlantic City, NJ 08401.

WHEREAS, the City is a municipal corporation of the State of New Jersey, owning and controlling certain real property within its territorial limits, including that certain real property known as the Boardwalk and in particular that portion of the Boardwalk located between Avenue and adjacent to Lot ____ in Block ____, (the "City Property"); and

WHEREAS, the Licensee owns or leases certain real property (the "Licensee Property") directly adjacent to the City Property and operates a business which sells goods and wares to the public at that location; and

WHEREAS, as permitted by Section 222-26 et seq of the Atlantic City Code, the Licensee wishes to display goods and wares for its patrons in certain portions of the City Property adjacent to the Licensee Property (the "Licensed Area"); and

WHEREAS, the City desires to grant a License to the Licensee to use the Licensed Area to display, advertise their goods and wares and to improve their business by providing a convenience to their patrons as permitted by the City Code.

NOW, THEREFORE, in order to carry out the intent as expressed above, and in consideration of the payment of \$5.00 per linear foot 16 L.F. (\$80) and the mutual covenants herein contained, the City and the Licensee hereby agree and covenant as follows:

approved by the Division of Planning, or any amendments or supplements thereto as required and approved by the Director of Planning. Said attachments and any required or approved amendment(s) are hereby made a part of this agreement as if fully set forth herein. No structure, equipment or improvements shall be erected upon the licensed area unless approval therefore has been received by the Licensee in writing by the Planning Division. All displays must be erected and maintained in strict accordance with the rules and regulations in §226-26.1 Section C (20) a through i.

SPECIFIC CONDITIONS OF USE

4. The within License is expressly subject to the following conditions:
 - a. All display equipment and/or goods and wares are only temporary. No permanent structures are permitted.
 - b. All display equipment and/or goods and/or wares must be adequately anchored to prevent movement, toppling, falling as to create a hazard to the public.
 - c. Any display equipment and/or goods and/or wares in the Licensed Area shall not impair the free and uninterrupted passage of persons, rolling chairs and/or trams along said Boardwalk.
 - d. The privileges afforded herein may be suspended by the Mayor of the City of Atlantic City, the Chief of Police, the Chief Engineer of the Fire Department, the Director of Emergency Management or the Director of Health and Human Services in the event of a parade or a weather or other emergency with or without notice in the interests of public health and safety.
 - e. This Revocable License shall terminate and be of no effect and the Licensed Area shall revert back to the City if the Licensee or its successors fails to

h. The Permitted Structures shall at all times be maintained by the Licensee or Licensee's designee at the Licensee's (or designee's) sole cost and expense in accordance with Section 222-26 of the Atlantic City Code. No placement of display equipment and/or goods and wares are permitted on the Boardwalk between the hours of 12: 00 midnight and 6: 00 a.m. In addition, equipment and/ or goods and wares must be removed from the boardwalk within one hour after the close of the adjacent retail business establishment and may not be set up prior to one hour before the retail business establishment opens for business. The display equipment and/or goods and/ or wares shall be permitted under the conditions outlined herein seasonally, from March 1 through November 10.

i. The Permitted Structures must be in accordance with §226-26.1

Section C (20) items a through i:

a. The display of retail merchandise may include goods hung on hangers on racks or displayed on tables, provided that the outdoor display is orderly and provides adequate vertical and horizontal clearances for public safety.

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b. Maximum heights: display table and/ or storage containers: 32 inches, display racks and/or shelving: 48 inches.

c. Portable sandwich sign size: Maximum sign width: two feet -six inches; Maximum height: four feet above Boardwalk surface; Maximum sign area: 9 square feet; Portable sign area is in addition the maximum sign area permitted for the building.

d. A seven -foot minimum vertical clearance above the surface of the boardwalk is required along with a five-foot minimum horizontal clearance

the City to the Licensee, to revoke this License, in part or in its entirety, and to require that the Permitted Structures or any structure existing at the time of such notice, be removed from the City's right of way described hereinabove. If, at the expiration of the said forty-eight (48) hours notice period, the Licensee fails to remove such structure, the City may remove such structure and receive reimbursement from the Licensee or its successor, for the reasonable costs of such removal. Should the City remove the Permitted Structures pursuant to the terms of this paragraph, the City and its agents, servants, and employees shall bear no responsibility or liability for damage caused to the Permitted Structure or adjoining structures, during such removal process.

INSURANCE

7.

- a. Licensee shall obtain, at its own cost and expense, Commercial General Liability insurance in the name of the Licensee, which insures all operations of the Licensee contemplated by this Agreement, the contractual assumption of liability reflected by this Agreement and names the City, its elected or appointed officials, officers, employees and agents as an Additional Insureds for General Liability including Products/Completed Operations and Contractual Liability. Such General Liability insurance shall be written with minimum limits of liability of \$1,000,000 per Occurrence Combined Single Limit for Bodily Injury, Property Damage, including Products/Completed Operations Liability and \$2,000,000 General Aggregate and \$2,000,000 Products/Completed Operations aggregate. If the General Liability coverage for this license location is included in a policy that covers other operations or

address to the City of Atlantic City, Office of Risk Management, 1301 Bacharach Blvd., Suite 707, Atlantic City, NJ 08401.

SUBJECT TO LAW

8. The Licensee and this License Agreement are subject to all Federal and State laws and the Ordinances of the City of Atlantic City as they now exist or may be hereafter adopted or amended and the Resolutions of the City now in effect or which may be hereafter passed and adopted.

INDEMNIFICATION

9. As a condition hereof, the Licensee and its successors and assigns agree and are bound to hold the City harmless and to defend the City against any and all claims for damages, costs and expenses to persons or property that may arise out of or be occasioned by use, occupancy, and/or maintenance of the aforementioned Permitted Structure, any loss within the Licensed Area, or from any act or occasion by any representative, agent, customer or employee of the Licensee. It is the intention of this paragraph on the part of the Licensee and a condition of this License that this paragraph shall serve as a full and total indemnification against any kind or character of claim whatsoever that may be asserted against the City by reasons of, or as a consequence of having granted this License.

BINDING EFFECT

10. This License Agreement shall be binding upon the heirs, assigns, and/or successors in right, title or interest of the parties to this Agreement.

RECORDATION

11. This License Agreement may not be recorded by the Licensee.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals
the day and year first below written.

ATTEST:

Paula Geletei
Paula Geletei, City Clerk

CITY OF ATLANTIC CITY

Marty Small Sr.
Hon. Marty Small Sr., Mayor

Date: 6/24/2026

Planning Approval

Date: 6/17/2026

By: Jacques A. Howard

Jacques A. Howard
Planning Director

Witness Signature

Date: _____

By Licensee:

Ali Zulfikar
Print Name:

(owner)
Title:

Date: 06-16-26

The within Agreement is approved as to form and execution.

By: J. Burt
Asst City Solicitor Jack Borenato

Date: 6/17/2026

Ordinance

Ordinance No. 21

OF THE
CITY OF ATLANTIC CITY, N.J.

Date..3-22-2023...
Date to Mayor..4-20-2023..

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Assistant City Solicitor/ Jack Berenato

Director of Planning& Development/s/ Jacques Howard

Prepared by the City Solicitor's Office

Council Members ALL COUNCIL Present the following Ordinance:

AN ORDINANCE AMENDING CHAPTER 222, ARTICLE III SECTION 26 OF THE CODE OF THE CITY OF ATLANTIC CITY, WHICH REGULATES THE DISPLAY OR PLACEMENT OF GOODS AND WARES ON STREETS, HIGHWAYS AND SIDEWALKS

WHEREAS, the City Council of the City of Atlantic City is charged with the obligation and responsibility to preserve and advance the public health, welfare and safety of the citizens of Atlantic City, including the free and uninterrupted passage of persons over and along City streets, highways and sidewalks; and

WHEREAS, City Code, Chapter 222, Article III, Section 26, states no person shall place, deposit, display, exhibit or offer for sale his, her or their goods, wares or merchandise upon the streets, boardwalks, highways or sidewalks of the City of Atlantic City so as to obstruct the free and uninterrupted passage of persons over and along the full width of said streets, highways and sidewalks; and

WHEREAS, City Council wishes to amend Chapter 222, Article III, Section 26 to add a Section 26.1. Placemenet of goods and wares on Boardwalk, which would permit retail business establishments with storefronts on the Boardwalk to place display equipment for the purpose of the display of goods and wares(merchandise) on the Boardwalk; and

WHEREAS, City Council is proposing the Amendment, to allow the display of merchandise on the Boardwalk, in response to request from the Boardwalk Merchants and has agreed to allow goods and wares to placed/displayed on the Boardwalk subject to the conditions and requirements set forth in Section 222-26.1 for the year 2023; and

WHEREAS, City Council has agreed to allow the display of merchandise on the Boardwalk pursuant to 222-26.1 for a trial period only and will, after the spring, summer and fall seasons, fully evaluate the conditions related to the cooperation of the participating retail business establishments, the level of conformity and the overall appearance, cleanliness and safety concerns related to the free and uninterrupted passage of persons on the Boardwalk.

WHEREAS, this matter was considered by City Council's Planning and Development Committee on March 8, 2023; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Atlantic City that Chapter 222, Article III, Section 26 of the Atlantic City Code be and is hereby supplemented and amended to add Section 26.1 as follows:

SECTION 1. Proposed § 222-26.1. Placement of goods and wares on Boardwalk.

- A. Purpose and intent: The purpose is to provide an opportunity for retail business establishments with storefronts on the Boardwalk to place display equipment for the purpose of the display of goods and wares, and goods and wares (merchandise) on the Boardwalk subject to conditions and requirements set forth herein as a temporary trial for the 2023 season only. It is expected, and required, that all display equipment, goods and wares shall be placed in such a manner as not to block pedestrian access and shall be maintained in an uncluttered, safe, and clean appearance. After the spring, summer and fall season of 2023 there will be an evaluation of conditions related to the cooperation of the participating retail business establishments relating to conformance with requirements, level of non-conformity, relative overall appearance, cleanliness, safety concerns, impairment of pedestrian access, if any.
- B. No person shall place, deposit, display, exhibit or offer for sale his, her or their goods, wares or merchandise upon the Boardwalk of the City of Atlantic City so as to obstruct the free and uninterrupted passage of persons over and along the full width of the Boardwalk right-of-way.
- C. However, the foregoing subsection shall not prohibit a duly licensed retail business establishment from placing display equipment, goods and wares in front of said premises, subject to the following terms and conditions:
 - (1) Any display equipment and goods and/or wares shall not impair the free and uninterrupted passage of persons along said Boardwalk. Display Equipment and/or goods and/or wares shall not extend beyond the area licensed by the City of Atlantic City. The license area shall not be more than four feet wide from the exterior property line of the adjoining subject property of the retail business establishment into the Boardwalk right of way. The license area shall be bounded on both sides by the extension of the limits of the interior lease which ends at the interior walls of the commercial unit. The line of the interior wall will extend onto the Boardwalk on both sides to create the side boundaries of the 4' wide license area.
 - (2) No placement of display equipment and/or goods and wares are permitted on the Boardwalk between the hours of 12:00 midnight and 6:00 a.m. In addition, equipment and/or goods and wares must be removed from the boardwalk within one hour after the close of the adjacent retail business establishment and may not be set up prior to one hour before the retail business establishment opens for business.
 - (3) Any display equipment and/or goods and wares shall not extend beyond the Boardwalk store frontage of the particular retail business establishment.

- (4) The owner of any retail business establishment providing display equipment and/or goods and/or wares on the Boardwalk pursuant to this section must maintain the Boardwalk clear of all rubbish and litter. This duty is in addition to any and all other duties imposed on all retail business establishments by the Department of Health and/or any code enforcement agency having jurisdiction over such premises.
- (5) Privileges permitted under this section are specifically limited to the Boardwalk and do not extend to the Boardwalk ramps leading from streets to the Boardwalk, streets, or highways of the City of Atlantic City.
- (6) In addition of the penalty set forth at § 222-31 of the Code of the City of Atlantic City, upon a charge and finding of any violation of this section, the mercantile license of said retail establishment and/or the privileges provided by this section may be revoked. The administrative hearing officer having jurisdiction over violations of this section shall be the Director of Licensing and Inspections and/or his designee.
- (7) The privileges provided under this section are not intended to provide any license, easement or other property interests.
- (8) The display equipment and/or goods and/or wares shall be permitted under the conditions outlined herein seasonally, from March 1 through November 10.
- (9) All display equipment and/or goods and wares are only temporary. No permanent structures are permitted.
- (10) All display equipment and/or goods and/or wares must be adequately anchored to prevent movement, toppling, falling as to create a hazard to the public.
- (11) Any equipment and/or goods and/or wares shall not impair the free and uninterrupted passage of persons, wheelchairs, walkers, rolling chairs or trams along the Boardwalk.
- (12) The owner/operator of any retail establishment providing equipment and/or goods and/or wares on the Boardwalk pursuant to this section must maintain the license area free and clear of all rubbish and litter. This duty is in addition to any and all other duties imposed on all retail establishments by the Department of Health and/or any code enforcement agency having jurisdiction over such premises.
- (13) A sample of all proposed display equipment and/or goods and/or wares shall be submitted to the City prior to their placement on the Boardwalk. No equipment and/or goods and wares will be permitted without prior approval.
- (14) Privileges permitted under this section are specifically limited and may be suspended by the Mayor, the Chief of Police, the Chief Engineer of the Fire Department or the Director of Emergency Management in the event of a parade or a weather or other emergency with or without notice in the interests of public health and safety.

- (15) In addition of the penalty set forth at § 222-31 of the Code of the City of Atlantic City, upon a charge and finding of any violation of this section, the mercantile license of said retail establishment and/or the privileges provided by this section may be suspended or revoked. The administrative hearing officer having jurisdiction over the suspension or revocation of a mercantile license for violations of this section shall be the Director of Licensing and Inspections and/or his designee.
- (16) The privileges provided under this section are not intended to provide any easement or other property interests but may be supplemented by separate license agreement approved by City Council.
- (17) The licensee must obtain a Certificate of Land Use Compliance (CLUC) for retail use and associated signage along with the License area for display.
- (18) Where the Boardwalk is less than 40 feet in width, the equipment and/or goods and/or wares contemplated under this article shall be prohibited.
- (19) All Boardwalk retail business establishments that exercise the option provided by this section shall be required to hold harmless and indemnify the City of Atlantic City from and against any and all claims arising out of or in connection with such undertaking. Prior to the issuance of a license (or license renewal) permitting the equipment and/or goods and wares placement, such retail establishment shall annually submit to the City proof of an insurance policy issued by an insurance company licensed to do business in the State of New Jersey insuring the Boardwalk retail establishment and the City of Atlantic City against all claims for damage to property or bodily injury, including death, which may rise from or in connection with Boardwalk equipment and/or goods and wares display. Such insurance shall name the City of Atlantic City as an additionally insured and shall provide that the policy shall not terminate or be cancelled prior to its normal expiration date without 30 days' advance written notice to the City. The minimum amounts of insurance to be maintained under such policy are a combined single limit policy of \$1,000,000.
- (20) For purposes of this subsection, "display equipment, and/or goods and/or wares (AKA merchandise) " shall include related items such as portable sandwich signs, umbrellas, display tables, display racks, and related items. All items must be made of durable materials that are capable of continued use and can be sustainable in poor weather conditions. No cardboard, paper or bare unpainted wood storage containers, shelving, display tables, or display racks are permitted. No damaged or broken cardboard, paper or bare unpainted wood storage containers, shelving, display tables, or display racks are permitted.
- a. The display of retail merchandise may include goods hung on hangers on racks or displayed on tables, provided that the outdoor display is orderly and provides adequate vertical and horizontal clearances for public safety.

- b. Maximum heights: display table and/or storage containers: 32 inches, display racks and/or shelving: 48 inches.
 - c. Portable sandwich sign size: Maximum sign width: two feet -six inches; Maximum height: four feet above Boardwalk surface; Maximum sign area: 9 square feet; Portable sign area is in addition the maximum sign area permitted for the building.
 - d. A seven-foot minimum vertical clearance above the surface of the boardwalk is required along with a five-foot minimum horizontal clearance where the area must open for access to allow adequate ingress and egress from the establishment.
 - e. An outdoor display area on the adjoining building front is permitted with a maximum height of 10 feet above the surface of the boardwalk.
 - f. A six-inch maximum projection out from the building is permitted for merchandise hanging on the exterior of the building front provided the merchandise is under cover as described above. All merchandise must be properly secured so not to be a falling hazard.
 - g. No merchandise or structures/apparatus are to be attached to or hanging on the doors, or hanging from awnings, or hanging from signage. No merchandise is permitted to hang from: roof overhangs, canopies, marques, open, closed, or retracted security gates, or mechanism/apparatus of security gates and similar structures. No merchandise is permitted in exterior covered alcoves, vestibules, or exterior foyers within the five-foot wide clearance access path in and out of the adjoining store.
 - h. The storage of equipment not directly related to the purpose of the display of goods and wares is not permitted on the Boardwalk.
 - i. All business exteriors shall maintain an uncluttered, safe, and clean appearance.
- d. Prior to the placement of any display equipment and/or goods and/or wares on the Boardwalk by an establishment, during the season (March 1 through November 10), under any of the subsections above, the owner or operator of the establishment shall enter into a license agreement with the City of Atlantic City defining the conditions for the use of the area in which said display equipment and/or goods and/or wares are placed. The license agreement shall:
- (1) Reference the requirements in the applicable subsection and include a description of the types of display equipment and/or goods and/or wares and other fixtures to be proposed in the licensed area and, notwithstanding the provisions of this section, the time period in which those items may be present and the manner in which they may be fixed on and to the Boardwalk.
 - (2) Include insurance and indemnification requirements at least as protective to the City as those enumerated in § 222-26.1C(20).

- (3) Require annual review by the Director of Planning, or other Mayor designee, and the Mayor shall be authorized to execute any renewal on behalf of the City.
- (4) Be revocable by the Mayor or Council upon 30 days' notice to the licensee or immediately upon the breach of the agreement by the licensee
- (5) Require an annual seasonal fee to be paid to the City in an amount equal to \$5 per linear foot of license area on the Boardwalk frontage along the property licensed
- (6) Require, as a supplement to the request for the License a plan shall be provided. The license area shall display on a plan prepared by a licensed New Jersey professional land surveyor as part of the application made to the City for license area. The plan will show the area in square feet and with dimensions, and also include the approximate location of Display Equipment and/or goods and/or wares. The licensed New Jersey professional land surveyor shall set two PK nails at the limit of the four foot wide license area and the intersection of the extended interior lease limit of the commercial unit / storefront on each side of the interior lease limit of the commercial unit / storefront. This will demarcate the limits of the license area on the Boardwalk for use by the owner and/or operator of the retail business establishment and enforcement officials.

SECTION 2. Any Ordinance or parts of any Ordinance inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. This Ordinance shall take effect immediately upon its approval by the city engineer, final passage and publication as provided by law.

March 22, 2023

3-H

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DUNSTON	X						SHABAZZ	X				X	
KURTZ	X						TIBBITT				X		
MARSHALL	X						WEEKES				X		
MORSHED	X					X	ZIA	X					
RANDOLPH, PRESIDENT							X						
X-Indicates Vote NY-Not Voting AB-Absent MOT-Motion SEC-Second													

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J. on ...MARCH 22, 2023.....

Adopted on second and final reading after hearing on.....APRIL 19, 2023.....

Approved By.../s/.....MARTY SMALL, SR.Date...4/20/2023.....By Council.....Reconsidered Over Ride _____

Mayor

Aye

Nay

This is a Certified True copy of the Original Ordinance on file in the City Clerk's Office.

/s/.....PAULA GELETEI, City Clerk

3/22/2023

3-H

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FIRST PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DUNSTON	X						SHABAZZ	X				X	
KURTZ	X						TIBBITT	X					
MARSHALL	X					X	WEEKES	X					
MORSHED	X						ZIA	X					
RANDOLPH, PRESIDENT							X						
X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second													

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J. on ...MARCH 22, 2023.....