



*City of Charleston*

# LATE NIGHT ESTABLISHMENT REGULATIONS

PROPOSED CHANGES TO THE LATE NIGHT ENTERTAINMENT ESTABLISHMENT (LNE) ORDINANCE

Tuesday, SEPTEMBER 13<sup>th</sup> 2022  
City Council



# TIMELINE

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- **June 2013:** Current LNE Ordinance passed
  - Almost 100 LNE permits have been issued to date across the city
- **2020:** COVID-19 Pandemic
- **June 2021:** Mobile Food Vending Regulations (1:30am closure)
- **October 2021:** Proposed LNE Updates at Council & Open Houses
- **Winter 2022:** Staff develops draft
- **Spring/Summer 2022:** Outreach: focus group, Restaurant Advisory Group, & public meeting
- **August 2022:** Approved by License Committee & Received 1<sup>st</sup> Reading from Council, pending amendments

# PUBLIC OUTREACH

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## 2021

**October 2021:** Initial City Council Presentation

**10/18/21:** LNE Amendment Open House

**10/21/21:** LNE Amendment Open House

- Approx. 70+ attendees (combined for both events)



## 2022

**5/12:** Focus Group Discussion (in-person)

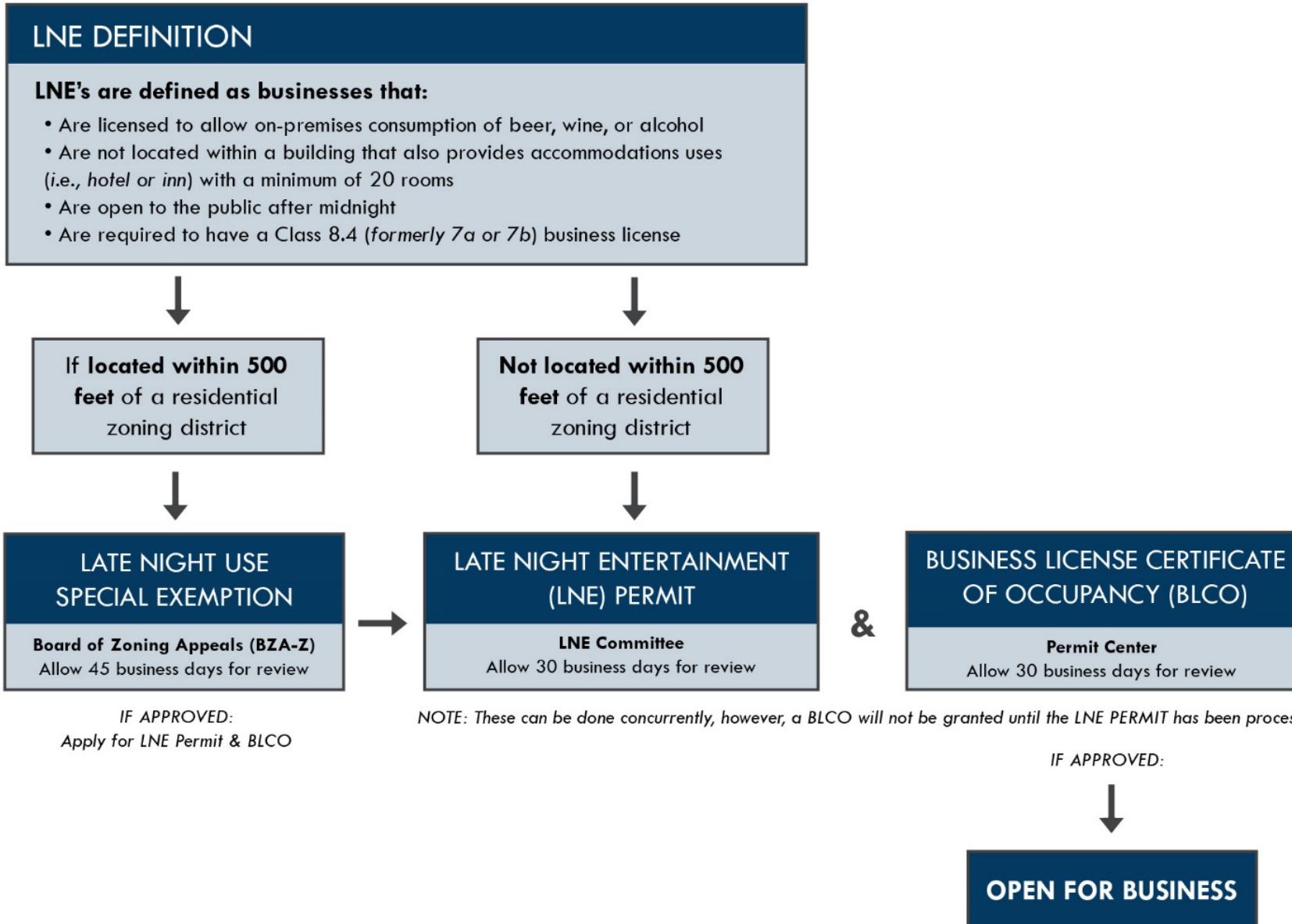
**6/8:** Restaurant Advisory Group Discussion (zoom)

**6/28:** LNE Public Meeting (in-person)

- Approx. 30 attendees



# Late Night Establishment (LNE) PERMITTING PROCESS OVERVIEW



# FINDINGS / DEFINITIONS

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## ***Late night establishment* means:**

Any bar, restaurant, venue, or establishment, approved to operate as such, that currently allows on-premises consumption of beer, wine, or alcohol, and remains open after midnight, regardless of zoning designation located within the City.

## ***What's new:***

Includes accommodations uses, i.e. hotel bars.

# NOISE & WASTE MANAGEMENT

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## ***Noise:***

Follow City's Noise Ordinance, Code Section 21-16. Loud and unnecessary noises restricted after 11:00 pm.

## ***Waste Management:***

It shall be the responsibility of LNE personnel to comply with City Code regarding waste management, littering, and property maintenance.

# SECURITY

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## *LNE operational regulations:*

All LNEs must provide adequate staffing to ensure public safety. The LNE businesses should consider their occupancy, day of the week, events, and holidays during planning.

### **Designated security staff:**

- An individual selected by the LNE who has appropriate training in safety management to facilitate the LNE's safety plan.
- Can be employees of the company or third-party contracted security personnel.
- Must be readily identifiable through standardized clothing and/or clear identification.
- Must maintain a presence at each public entrance, if required, to be present on or around exterior premises of the business **from 10 PM to closing.**
- Assist with ID checks and employ crowd management techniques.

### **Minimum ratio of staff assigned to security:**

LNE Actual Occupancy Load Ratio to Designated Security Staff	
Actual Occupant Load At any Time	Security
50 people	1
51 - 150 people	2
151 - 250 people	3
251 - 350 people	4
Each additional 100 people	(+)1 per 100

## UNDERAGED DRINKING

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- LNEs must implement a plan by **10:00 PM** to ensure appropriate ID checks are conducted to verify patrons are 21 years of age or older.
- LNE's serving food past 10:00 PM who allow patrons **under 21 years of age** into the facility shall establish a method to identify the underaged patrons.
- The facility will ensure staff members have received appropriate training to check ID's.

## ID SCANNERS

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*Keep in mind that security requirements are tied to the **security plan**.*

- Encouraged in ordinance but **not required in initial security plan**
- Can be **required by remediation** meetings
- Exploring **pilot incentive program** as proposed by Roy Neal (El Jefe)

# PERMIT APPLICATION

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Any business intending to operate as a LNE must apply for, in addition to its CO and BL, a LNE permit, and provide proof of compliance when renewing its LNE Permit.

## ***What's new:***

LNE Permits shall be reviewed by relevant staff as part of standard procedure. Dissolving the LNE Establishment Review Committee/Board.

## ***Renewals:***

- Permits will be issued for a duration not to exceed **2 years**. Renewal applications may be submitted up to 90 days but not less than 30 days before the permit expiration date so staff may review and evaluate the request to renew the permit.
- The LNE is eligible to complete renewal request as long as the facility ownership, occupancy, configuration, or occupant has not changed, otherwise a full application may be required.
- LNE Permit is not transferable to new ownership or new locations.

## KEY UPDATE: VIOLATIONS

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The proposed violation section is *triggered by the issuance of a court summons*. Generally, our teams work with businesses by discussing issues, providing notices, and establishing a correction timeline *before moving to a court summons*.

- City officials **can issue a court summons at any time** for a violation.
- Summons are **often issued immediately for a significant life hazards or repetitive issues**.
- Our **goal is education**, and we generally engage in discussions with management, issue notices, and **provide a correction time frame before moving to a summons phase**.
- Issuing **a violation notice is not the same** as issuing a court summons.
- Re-inspections are conducted within the established timeframe to determine compliance or progress.
- **Generally, for non-immediate life safety hazards, only after failure to correct the situation will a court summons be issued.**

# KEY UPDATE: VIOLATIONS

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## AUGUST 16 VERSION (City Council)

- ~~1<sup>st</sup> Issuance of Municipal Ordinance Summons:~~ mandatory remediation meeting between the LNE and City staff to review the LNE permit, the violation, and discuss strategies to prevent future violations.
- ~~2<sup>nd</sup> Issuance of Municipal Ordinance Summons (within 1 year of first):~~ issuance of a written notice of intent to suspend or revoke an LNE permit.

## SEPTEMBER 6 VERSION (License & Public Safety Committees)

- ~~1<sup>st</sup> Issuance of Municipal Ordinance Summons:~~ (1<sup>st</sup> summons within the ~~2 year~~ permit period) ~~Mandatory remediation meeting~~ between the LNE and City Staff.
- ~~2<sup>nd</sup> Issuance of Municipal Ordinance Summons:~~ (2<sup>nd</sup> summons within the ~~2 year~~ permit period) ~~Mandatory remediation meeting~~ between the LNE and City Staff. Director of Revenue Collections may issue a ~~written notice of intent to suspend a late-night establishment permit for a period of time up to 30 days.~~
- ~~3<sup>rd</sup> Issuance of Municipal Ordinance Summons:~~ (3<sup>rd</sup> summons within the ~~2 year~~ permit period) Director of Revenue Collections will issue a ~~written notice of intent to suspend a late-night establishment permit for a period of time up to 90 days.~~
- ~~4<sup>th</sup> Issuance of Municipal Ordinance Summons:~~ (4<sup>th</sup> summons within the ~~2 year~~ permit period) Director of Revenue Collections will issue a ~~written notice of intent to suspend for a period of time up to 1 year or revoke a late-night establishment permit.~~

# KEY UPDATE: VIOLATIONS

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## **SEPTEMBER 13 Version (City Council)**

- **1st Issuance of Municipal Ordinance Summons:** (1st summons within the 2-year permit period) Mandatory remediation meeting between the LNE and City Staff.
- **2nd Issuance of Municipal Ordinance Summons:** (2nd summons within the 2-year permit period) Mandatory remediation meeting between the LNE and City Staff. Director of Revenue Collections may issue a written notice of intent to suspend a late-night establishment permit for up to 90 days.
- **3rd Issuance of Municipal Ordinance Summons:** (3rd summons within the 2-year permit period) Director of Revenue Collections will issue a written notice of intent to suspend a late-night establishment permit for up to one year.

# EMERGENCY SUSPENSION

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- An **emergency suspension** may be invoked if a situation arises that is determined by a Fire Marshal, a Police Officer, or Code Enforcement Officer to require immediate action to eliminate a situation that poses imminent threat to persons or property, to preserve the public health, safety, and welfare of the public, or to restore public peace and order.
- This suspension will last for the duration of that day's LNE operations and will be reported promptly to the Department of Revenue Collections for review of further action.

# KEY UPDATE: APPEALS

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## AUGUST 16 VERSION (City Council)

### ~~Appeals of application decisions or suspension/revocation of permit:~~

- ~~The LNE will have (10) days after notification to request a hearing, which will be held by a hearing officer within (45) days of request. At the hearing the parties shall have the opportunity to present all relevant arguments, be represented by counsel, present evidence and witnesses, and request that certain questions be asked of adverse witnesses in cross-examination.~~
- ~~Any party aggrieved by the decision of the hearing officer may appeal the decision to the circuit court within (10) days after the issuance of the decision.~~

## SEPTEMBER 6 VERSION (License & Public Safety Committees – going to 9/13 City Council)

When the Director of Revenue Collections issues a **written notice of intent to deny, suspend, or revoke an LNE permit**, the Director shall send such notice, which shall include the specific grounds for such action, to the appellant by personal delivery or certified mail.

The appellant shall have **10 days** after the delivery of the written notice to submit a written request for a hearing. If not, the **written notice shall become final on the 11<sup>th</sup> day** after it is issued.

If the appellant **does make a written request for a hearing within 10 days**, then then a **hearing will be held in accordance with the policies of the License Committee**, as outlined in Sec. 17-31.

Any person aggrieved by a final decision of the License Committee **may appeal to the circuit court**. The **appeal must be filed within 30 days** after the affected party receives actual notice of the decision of the License Committee.

Timely appeal of a decision of the License Committee **does not effectuate a stay** of that decision. The decision of the License Committee shall be **binding and enforceable unless overturned by an applicable appellate court** after a due and timely appeal.

## NEXT STEPS

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2<sup>nd</sup> reading at **9/13/22** City Council

- Potential for final reading, pending edits/amendments

### ***Effective Date:***

- The provisions of this article shall become effective 3 months following ratification.
- LNE's in existence shall come into compliance within 5 months of the date of ratification.

*Thank you!*

## QUESTIONS & DISCUSSION