

A RESOLUTION GRANTING A USE PERMIT (UP-23-10) TO OMD ENTERPRISE, LLC TO OPERATE AN EVENT SPACE/BANQUET HALL AND ENTERTAINMENT ESTABLISHMENT AT 340 HIGH STREET (TAX PARCEL 0006-0910).

WHEREAS, OMD Enterprise, LLC (the owner of the subject property) has made application pursuant to Section 40.2-533 of the Code of the City of Portsmouth, Virginia for the granting of a use permit to operate an event space/banquet hall and entertainment establishment at 340 High Street (Tax Parcel 0006-0910); and

WHEREAS, the applicant and the Planning Director have done all things required to be done in connection with said application; and

WHEREAS, the Planning Commission has recommended the approval with conditions of the application for a use permit.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Portsmouth, Virginia:

1. That it has reviewed and considered the application materials, the City staff report, the proceedings and recommendation of the Planning Commission, all comments made at the public hearing, and the discussion of the Council regarding the application.
2. That it has considered factors it deemed applicable and consistent with the Code of Virginia, which may include, without limitation, the nature, extent, external effects, location, design or method of operation of the requested use, the City's comprehensive plan, and the public health, safety, and general welfare.
3. That it has considered the imposition of conditions regarding the location, character, and other features of the proposed use and finds and determines that the conditions imposed by this Resolution are necessary to ensure compliance with the general intent and purposes of the Zoning Ordinance and to prevent or minimize adverse effects from the proposed use.
4. That based on its review and consideration, it has determined that the use permit requested by the subject application should be **GRANTED WITH CONDITIONS** as provided in this Resolution.
5. That a use permit is hereby granted pursuant to Section 40.2-533 of the Code of the City of Portsmouth, Virginia to operate an event space/banquet hall and entertainment establishment at 340 High Street (Tax Parcel 0006-0910), the said 340 High Street being more particularly described as:

UP-23-10

**340 High Street
(Tax Parcel 0006-0910)**

ALL THAT certain lot, piece or parcel of land, together with all of the buildings and improvements thereon and the appurtenances thereunto appertaining, lying, situate and being at the northeast corner of High and Court Streets, in the City of Portsmouth, Virginia, shown on a certain plat entitled "Physical Survey of Property of Mary D. Lawrence et al. 330 to 340 High Street, Portsmouth, VA.", made June 17, 1959 by John M. Baldwin and Associates, and recorded in the Clerk's Office of the Circuit Court for the City of Portsmouth, Virginia in Deed Book 334 at page 114.

IT BEING Parcel One of that certain property conveyed to OMD Enterprise, LLC by Deed from Portsmouth Redevelopment & Housing Authority dated March 30, 2023 and recorded in the Clerk's Office of the Circuit Court for the City of Portsmouth, Virginia as Instrument Number 202303773.

6. That the use permit is approved subject to the following conditions which shall be observed by the applicant and any successor in interest:
- (a) Without limitation, the establishment shall be maintained and operated in compliance with the following use-specific standards set forth in Zoning Ordinance Sec. 40.2-217(G)(4)(b):
 - (i) Entertainment establishments shall not create unreasonable environmental aspects such as noise, odor, smoke, vibration, heat, or glare.
 - (ii) Noise from the establishment shall comply with City Code Sec. 24-255 Unlawful Excessive Sound.
 - (iii) Any building housing live entertainment shall include soundproof entryway and exit doors.
 - (b) The event space/banquet hall shall also adhere to the entertainment establishment use-specific standards set forth in Zoning Ordinance Sec. 40.2-217(G)(4)(b), as listed above.
 - (c) Prior to initially operating the approved use and so long as the use remains in operation, the owners and/or operators shall install and maintain digital video equipment with recording capabilities sufficient to indicate the date and time that the recording is made. The recording shall provide surveillance coverage encompassing the front, side, and rear exteriors of the establishment for 24 hours a day, 7 days a week. Recorded data must

be maintained in a condition permitting review of the information for a period of no less than thirty days.

- (d) Prior to initially operating the entertainment establishment and/or event space/banquet hall, a Zoning Permit from the Zoning Administrator and a Certificate of Occupancy from the Department of Permits and Inspections must be obtained.
- (e) Prior to initially operating the entertainment establishment and/or event space/banquet hall, a valet parking plan must be submitted to the Zoning Administrator for review and approval.
- (f) All construction on the subject property must be conducted in compliance with all applicable local, state, and federal codes, ordinances, and regulations. All required licenses and permits must be obtained prior to commencement of any construction work and maintained as required until completion of the work.
- (g) The maximum occupancy load of the entertainment establishment, including patrons and employees, must comply with any limits set by the Building Official.
- (h) All taxes/fees associated with the property shall be paid when due, as determined by the City Treasurer.
- (i) All local, state, and federal licenses and permits required for operation of the entertainment establishment and/or event space/banquet hall must be obtained prior to commencement of the use and must be maintained in good standing for so long as the use continues. Without limitation, the suspension, termination, or surrender of an ABC license for the entertainment establishment and/or event space/banquet hall shall, at the discretion of City Council, constitute grounds for City Council to revoke this use permit.
- (j) Without limitation, this Use Permit is subject to Section 40.2-533(K) of the Zoning Ordinance, which provides that this Use Permit may automatically expire and become void if certain conditions set forth therein are not satisfied within two (2) years of the date of approval by City Council.
- (k) The owners and/or operators of the establishment shall not violate any laws of the Commonwealth or ordinances of the City related to peace and good order, nor suffer repeated or chronic violations by patrons or customers. If the Chief of Police, in their discretion, determines that there are significant violations of this type so as to comprise a significant law enforcement issue, they may notify the applicant in writing and provide a

copy of such notice to the Zoning Administrator, which may result in the initiation of proceedings for the revocation of this Use Permit. This clause is not to be construed as a limitation or waiver of any other grounds for revocation of this Use Permit under the Zoning Ordinance or the terms hereof.

- (l) In accordance with Zoning Ordinance Sec. 40.2-533(L), this Use Permit may be revoked by City Council after conducting a public hearing. The permit may be revoked if Council finds:
 - (i) The Use Permit was obtained or extended by fraud or deception;
 - (ii) The applicant has failed to comply with one or more of the conditions of approval;
 - (iii) There is a change in conditions affecting the public health, safety, and welfare, since adoption of the Use Permit; or
 - (iv) There are repeated violations of the Zoning Ordinance by the holder of the Use Permit, related to the development approved by the Use Permit.

7. **REVOCAION OF PERMIT:** Violation of any of the conditions set forth herein may serve as grounds for revocation of the use permit by City Council.

ADOPTED by the Council of the City of Portsmouth, Virginia, at a meeting held on October 10, 2023.

Teste:

City Clerk