CITY OF SADIEVILLE, KENTUCKY
ORDINANCE NUMBER 2020-01

AN ORDINANCE RELATING TO ALCOHOL BEVERAGE CONTROL

WHEREAS, THE CITY OF SADIEVILLE, BY AND THROUGH A MAJORITY OF REGISTERED VOTERS OF SCOTT COUNTY, PERMITS THE PRESENCE OF ALCOHOL, MANUFACTURING OF ALCOHOL, AND SALES OF ALCOHOL WITHIN SCOTT COUNTY, INCLUDING THE CORPORATE LIMITS OF THE CITY OF SADIEVILLE, SO LONG AS SUCH IS DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAW; AND

WHEREAS, THE CITY OF SADIEVILLE HAS ESTABLISHED UNIFORM REGULATIONS AND REQUIREMENTS FOR THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES, MANUFACTURING, AND SALES PURSUANT TO AUTHORIZATION UNDER KRS CHAPTERS 241 THROUGH 244, AND ALL OTHER APPLICABLE LAW;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SADIEVILLE, KENTUCKY, THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

ARTICLE I. GENERAL

A. This Ordinance shall be known as the "Alcoholic Beverage Control Ordinance" of the City of Sadieville, Kentucky (hereinafter referred to as the "City").

B. The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS Ch. 241 through 244.

C. The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the alcoholic beverage control laws (KRS Ch. 241 through 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

D. This Ordinance shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this chapter shall excuse or relieve the licensee, or the owner, proprietor, employee, agent or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance of the city, or of any statues of the state relating to violations pertaining to alcoholic beverages.

E. The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Ch. 241 through 244) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

ARTICLE II. LICENSE REQUIREMENTS

A. City Licenses:

For the privilege of causing, permitting and engaging in the actions, business, and transactions Authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in KRS 243.070. The fee for each city license shall be as set out in the schedule set forth below. In the event KRS 243.070 shall hereafter be amended to authorize additional city licenses, the fee for each city license shall be the maximum fee provided in the statute as amended.

1.	Distiller's License, per annum	$500.00
2.	Rectifier's License	
	a. Class A, per annum	$3,000.00
	b. Class B (craft rectifier), per annum	$960.00
3.	Wholesaler's License, per annum	$3,000.00
4.	Quota Retail Package License, per annum	$1,000.00
5.	Quota Retail Drink License, per annum	$1,000.00
6.	Non-quota Type 1 Retail Drink License, per annum	$2,000.00
7.	Non-quota Type 2 Retail Drink License, per annum	$1,000.00
8.	Non-quota Type 3 Retail Drink License, per annum	$300.00
9.	Special Temporary License, per event	$166.00
10.	Special Temporary Alcohol Auction License, per event	$100.00
11.	Caterer's License, per annum	$800.00
12.	Bottling House or Bottling House Storage License, per annum	$1,000.00
13.	Brewer's License, per annum	$500.00
14.	Microbrewery License, per annum	$500.00
15.	Malt Beverage Distributor's License, per annum	$400.00
16.	Non-quota Retail Malt Beverage Package License, per annum	$200.00
17.	Non-quota Type 4 Retail Malt Beverage Drink License, per annum	$200.00
18.	Limited Restaurant License, per annum	$1,200.00
19.	Limited Golf Course License, per annum	$1,200.00

20.	Qualified Historic Site, per annum	$1,030.00
21.	Authorized Public Consumption License, per annum	$250.00

B. The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

C. The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars ($50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars ($50).

D. Certain Special Licenses defined:

(1) Limited Restaurant License

A Limited Restaurant License may be issued pursuant to KRS Chapter 243, if said restaurant meets the definition of a "Limited Restaurant" as set forth in KRS 241.010 (31) it is a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, and which maintains seating capacity of either one hundred (100) or fifty (50) persons for dining.

(2) Limited Golf Course License

A Limited Golf Course License may be issued pursuant to KRS Chapter 243 if an establishment meets the following conditions: a golf course with nine (9), or eighteen (18), holes that meets United States Golf Association criteria as a regulation golf course. A Limited Golf Course License shall authorize the license to purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premise.

(3) Non-quota Type 1 Retail Drink License

A Non-quota Retail Drink License may be issued to, and in the, following as defined by KRS to: a Convention Center or a Convention Hotel Complex; a Horse Racetrack; an Automobile Racetrack; a Railroad System; a Commercial Airlines System or Charter Flight System, a Qualified Historic Site, and a State Park.

(4) Non-quota Type 2 Retail Drink License

A Non-quota Retail Drink License may be issued pursuant to and as defined by KRS to the following: (a) a Hotel that contains at least fifty (50) sleeping units, and which maintains fifty percent (50%) of its gross food and drinks sales are from the sale of food; (b) a restaurant that maintains fifty percent (50%) of its gross food and drinks sales are from the sale of food; (c) an Airport; or (d) a Riverboat, (e) a Distiller, or (f) A business located within, or adjacent to, an entertainment destination center licensed premises.

(5) Non-quota Type 3 Retail Drink License

A Non-quota 3 Retail Drink License may be issued pursuant to and defined by KRS to the following: (a) a Private Club in existence for longer than one (1) year prior to the license application and which excludes the general public; (b) a Dining Car, and (c) a Bed and Breakfast.

(6) Non-quota Type 4 Retail Malt Beverage Drink License

A Non-quota Type 4 Retail Malt Beverage Drink License may be issued pursuant to and as defined in KRS to the following: a holder of a quota retail drink license; a holder of a microbrewery license; a holder of a small farm winery license; and any other business wishing to sell malt beverages by the drink for consumption on the premises. A Non-quota Retail Malt Beverage Drink License shall not be issued to any premises from which gasoline and lubricating oil are sold, or from which the servicing and repair of motor vehicles is conducted, *unless* there is maintained in inventory for sale on the premises at retail not less than five thousand dollars ($5,000) of food, groceries, and related products valued at cost.

(7) Special Temporary License

A Special Temporary License may be issued only as set forth in KRS 243.260 and 804 KAR 4:250. Such a license may be issued to any regularly organized fair, exposition, racing Association, organized civic or community-sponsored event, or charitable event as defined by applicable law. This license shall authorize the licensee to exercise the privileges of a Quota Retail Drink Licensee *and* a Non-quota Type 4 Malt Beverage Drink Licensee at designated premises for a specified and limited time, which shall not exceed thirty (30) days and which shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine Quota Retail Drink License or a Non-quota Retail Malt Beverage Drink License shall apply also to a Special Temporary Licensee as described in this section.

E. Expiration of License; Proration of Fees

All city licenses, except temporary licenses, shall begin on July 1 of any year and shall expire on June 30 of the following year as set forth in KRS 243.090 and 804 KAR 4:390. Any licenses issued after January 1of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period; however, the cost of any license shall not be less than one-half (1/2) the amount of the full fee for an annual license of that type.

F. Payment of License Fees; Delinquency

No licensee shall enter into or begin operating any business for which a license is required by this chapter until the license fee has been paid in full. The fee for renewal of any license shall be paid with the renewal application. Failure to pay any license fee within ten (10) days after it becomes due shall result in a penalty equal to ten percent (10%) of the license fee. Any licensee failing to pay the fees, including penalties, within ten (10) days after such fees are due may be subject to revocation of the license and to other penalties as provided in this Ordinance.

G. Refund of Fees

(1) Should any licensee under this Ordinance be prohibited from conducting the licensed business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth with reference to alcoholic beverages or other cause outside licensee's control, then the city shall refund to licensee the proportionate part of the license fee for the period during

which licensee is prevented from carrying on said business if the licensee provides sufficient proof to the City ABC Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee, or an agent or employee of the licensee.

(2) In the event a violation of this Ordinance occurs that results in the suspension or revocation of the license, the city shall not be required to refund any portion of the license fee.

H. Regulatory License Fee

(1) Pursuant to KRS 243.075, there is hereby imposed a Regulatory License Fee on the gross receipts of sale of alcoholic beverages of each licensee who has a local license issued by the City ABC Administrator. The City's Regulatory License Fee shall be five percent (5%) of gross sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and wine, the Regulatory License Fee shall be five percent (5%) of gross sales. The Regulatory License Fee shall be five percent (5%) on gross retail sales of package malt beverages.

After the first year, the City Commission shall adopt with the budget for each subsequent fiscal year, such annual rate for the regulatory license fee that shall fully reimbursement to the city for the cost of actual additional policing, regulatory, or administrative expense related to the sale of alcoholic beverages in the city for the prior year. Should the city fail to address the regulatory license fee in any budget, then the regulatory license fee shall remain at the level at which it was last fixed in this ABC Ordinance until such time as the City Commission shall adjust the fee.

(2) Payment of said regulatory fee shall be remitted to the City ABC Administrator, who shall transmit all fees to the City Clerk, or his designee, for deposit into the appropriate designated account. The City may use said fees as permitted by law, including but not limited to, any cost of additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the City. The regulatory license fee shall be in addition to any other fees or licenses permitted by law, except that a credit against a regulatory license fee in the City shall be allowed in an amount equal to any license fee shall be based on paperwork required by the local and/or state ABC Administrator, which may include but is not limited to tax returns and financial statements. Said paperwork and payment will be due according to the schedule set forth by the Mayor, or his designee, which may be set at, but is not limited to, time periods consisting of a monthly or quarterly billing by the local ABC office and/or the City.

(3) Failure to pay such remittance within ten (10) days of the due date constitutes a violation and shall subject a licensee to suspension or revocation.

(4) Penalty for failure to file a return and pay remittance by the due date is five percent (5%) of the regulatory fee for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the regulatory fee; provided, however, that in no case shall the penalty be less than ten dollars ($10.00).

(5) Interest at the rate of eight percent (8%) per annum will apply to any late payments.

I. Disposition of Fees and any other type of payment to the City:

The City ABC Administrator shall transmit all fees and any other types of payment made to the City, upon collection, to the City Clerk, or his/her designee, for deposit into the appropriate designated account.

ARTICLE III. CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

A. Alcoholic Beverage Control Administrator

(1) Pursuant to KRS 241.160 and KRS 241.170, there is hereby created the office of the City of Sadieville Alcoholic Beverage Control Administrator.

(2) Pursuant to KRS 241.170 the City Alcohol Beverage Control Administrator shall be appointed by the Mayor. The City Alcohol Beverage Control Administrator shall be entitled to such compensation, if any, as may be established by the City Commission.

(3) The City Commission may from time to time appoint such additional personnel, such as Alcohol Beverage Control investigator(s), as is necessary to assist him or her in the administration of this ordinance.

(4) The City ABC Administrator shall have the same duties and functions regarding local license applications and renewals as the state Department of Alcoholic Beverage Control ("Department") with respect to state licenses. The City ABC Administrator shall have the same duties and functions regarding local license penalization as the Alcoholic Beverage Control Board ("Board") with respect to state license penalization.

(5) To prevent potential conflicts of interests, no person shall be a City ABC Administrator, an investigator, or an employee of the city, under the supervision of the City ABC Administrator, who would be disqualified to be a member of the Board under state law set forth in KRS 241.100.

(6) The City ABC Administrator shall have authority delegated by the Mayor, and as authorized under KRS Ch. 241 to 244. The City ABC Administrator, and his investigators, shall have jurisdiction coextensive with the boundaries of the City.

(7) The City ABC administrator and his investigators shall have available at all reasonable times for their inspection all books and records required to be maintained by licenses under KRS 244.150 and the City ABC Administrator shall receive copies of all reports submitted by licensee to the Department.

(8) The City ABC Administrator, before entering upon his or her duties, shall take the oath as prescribed in Section 228 of the Constitution. The ABC Administrator and any employee delegated or assigned to the ABC Administration may also be asked to execute a bond in such penal sum as the City deems necessary unless said person if already covered under the City's active bonds as required under KRS in regards to officials and employees of the City.

B. Appeals

(1) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing a notice of appeal with the Board within thirty (30) days after the decision or order of the City ABC Administrator is mailed or delivered by personal service. The notice of appeal shall specify the city administrator by name and shall identify the decision or order, or part of the decision or order, being appealed. The notice shall contain a certificate that a copy of the notice has been served on the City ABC Administrator and shall be accompanied by a copy of the decision or order being appealed. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from decisions or orders of the city administrator shall be governed by KRS Chapter 13B.

(2) As provided by law no appealed City ABC Administrator order or decision, or resulting state Board order, shall become effective or final until all Board appeals, court appeals, or appeal times shall have been exhausted. When a Board order becomes final and effective, the City ABC Administrator, shall enter such orders and take such action as required by the final order of the Board.

ARTICLE IV. APPLICATION AND MAINTENANCE OF LICENSE

A. Advertisement

Before an application for a license shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in the newspaper used by the City for legal notices under KRS 424.120. The notice shall include the following:

(1) The advertisement shall state the name and address of the applicant and the name and address of each principal owner, partner, member, officer, and director if the applicant is a partnership, limited partnership, limited liability company, corporation, governmental agency, or other business entity recognized by law. All advertisements shall state the location of the proposed premises for which the licenses sought, and the type of business, and type of license for which application is made.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement.

B. Form of Application

(1) All licenses granted under this chapter shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the Kentucky ABC Board and/or the City, both of which may be amended and supplemented from time to time by each respective agency.

(2) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought, as required by the Kentucky Revised Statutes, the state Department, and the City, including as follows:

(a) Name and address;
(b) Nature of interest;
(c) Whether or not a citizen of the United States;
(d) Date of birth;
(e) Date of residence was established in Kentucky, if a resident of Kentucky.
(f) Whether or not he or she has any interest in any other license or LLC, corporation, partnership or other business organization holding a license under this Ordinance;
(g) Extent of stock or company ownership;
(h) Whether or not he or she has any interest in any license or LLC, corporation, partnership or other business organization holding a license in any other state or province.

(3) Each application shall be accompanied by a check or money order for the license fee. In addition to the above specified information, the applicant shall file, with the application, responses to any additional questions as may be posed or prescribed by the City ABC Administrator. The City Commission has
adopted a statement of guidelines and priorities for the issuance of licenses within this Ordinance to determine the extent to which applications may further, or impede, the objectives of those guidelines.

Therefore, in addition to the information contained in the application, the City ABC Administrator may require such other information as the Administrator may, in his or her discretion, deem desirable, reasonable, or appropriate to the consideration of the application.

C. Other Conditions

In addition to any other inquiries, conditions or considerations required or permitted by law:

(1) The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by a licensed building inspector, and any and all other inspections required by the Kentucky Building Code or other applicable law. It is provided, however, that the City ABC Administrator may commit to the grant of an alcoholic beverage license, or to the renewal of a license, conditioned on the performance of construction or repairs on the premises as to which the license applies. For this purpose, the City ABC Administrator may issue a written certification to the applicant that a license will be granted subject to the satisfaction of specified conditions within an appropriate time frame.

(2) No license to sell alcoholic or malt beverages may be granted or renewed to any person who is delinquent in the payment of any property taxes, both real and personal, any other taxes due to the City, fees of any type, or charges due to any department of the city at the time of issuing the license, nor may any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any of the above delinquent payments due and owing to the City. Further, if a licensee becomes delinquent in the payment of any of the above at any time during the license period, the license to sell alcoholic or malt beverages may be subject to revocation or suspension.

(3) No person, whether applicant for license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the City ABC Administrator, or any member of the City's staff, or any state ABC Administrator or staff, in any matter in which an application or proposed application for license, or procedure for revocation or suspension is pending before such officer. This division is not intended to stifle expressions of opinion; however, it is intended to make clear that the ABC Administrators are public officials charged with the administration and enforcement of the law, both local and state. Any person applying for a license, or contesting the revocation or suspension of a license, who engages in attempted bribes, threats, attempted undue influence or intimidation of a city or state ABC Administrator or staff shall be disqualified from receiving or retaining a license, in addition to other penalties as provided by law. The procedures for appeals shall apply to disqualifications, revocations or suspensions under this Ordinance. Nothing in this Ordinance shall be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after a final order or revocation or suspension, where the Ordinance and applicable statutes allow for such payments in settlement.

D. Form of License

All city licenses shall be in such form as may be provided by the ABC Administrator, but at the least shall contain:

(1) The name and address of the licensee;
(2) The number of the license;
(3) The type of license;
(4) A description by street and number, or otherwise, of the licensed premises;
(5) The expiration date of the license;
(6) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

E. Change of Information

(1) If after a license has been issued, there is a change in any fact required to be set forth in the application, a verified amendment in writing giving notice of the change shall be filed with the City ABC Administrator with ten (10) days of the change.

(2) Since a number of licenses issued by the city are in the name of corporations or other business organizations, it is necessary that ownership changes in such organizations be reported to the City ABC Administrator. The City ABC Administrator can, therefore, investigate the person to whom the ownership or management is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(3) As used with regard to a partnership, corporation, LLC or other business organization herein, the word "change" is construed to include any change in managers, partners or LLC members, directors or officers of the corporation, or change in ownership or stock whereby any person secures ten percent (10%) of the outstanding ownership or stock. Transfer of more than ten percent (10%) of the total ownership or stock shall require a new license.

(4) The following information shall be required concerning any new manager, partner or LLC member, new director, officer, or person securing any interest in alcoholic beverage license:

(a) Name and address;
(b) Nature of interest;
(c) Whether or not a citizen of the United States;
(d) Date of birth;
(e) Date residence was established in Kentucky, if a resident of Kentucky. If a resident, indicate when residence was established;
(f) Whether or not he or she has any interest in any other license or in any LLC, corporation, partnership or other business organization holding a license under this act;
(g) Extent of stock or company ownership;
(h) Whether or not he or she has any interest in any license or in any LLC, corporation, partnership or other business organization holding a license in any other state or province.

(5) This information shall be filed with the City ABC Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made within ten (10) days of any change of required information.

F. Renewal of License

(1) Every year, except in the case of the temporary licenses, each licensee shall renew its license. All renewal licenses must be on file with the City ABC Administrator no less than thirty (30) days prior to the expiration of the license for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period as a result of construction, act of God, casualty, death, the acquisition or threatened acquisition of the premises by any federal, state, city or other governmental agency or private organization possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew exiting lease; provided that said licensee shall file a

written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not by payable until application is made for the transfer of said license to a new location.

(2) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

G. Lost or Destroyed License.

When a license shall be lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after the Administrator shall have been satisfied as to the facts; provided, however, that the applicant for said duplicate license shall pay a fee of ten dollars ($10.00) for the duplicate license.

H. Revocation or Suspension.

(1) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of other provisions of KRS Ch. 241 to 244, or any rule or regulation of the state Board, or of the Kentucky Department of Revenue, relating to the regulation of the manufacture, sale, and transportation, or taxation, of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale, and transportation, or taxation, of intoxicating liquors, or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Ch. 241 to 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed is disobedience of his or her instructions.

(2) A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.

(3) In addition to the foregoing stated causes, any license may be revoked or suspended for the following causes:

(a) Conviction of the licensee or the licensee's agent, servant, or employee for selling any illegal alcoholic beverages on the licensed premises.
(b) Making any false, material statements in an application or renewal application for a license or supplemental license.
(c) Conviction of the licensee or any of the licensee's agents, servants, or employees of: (1) Two (2) violations of the terms and provisions of KRS Chapters 241 to 244, or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years; (2) Two (2) misdemeanors directly or indirectly attributable to the use of alcoholic beverages within two (2) consecutive years; or (3) Any felony.
(d) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to

taxation, or for a violation of any related administrative regulations promulgated by the Department of Revenue.

(e) Revocation of any state license provided in KRS 243.030, 243.040, or permit granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages.

(f) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged

in, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This subsection shall not apply to: (1) The sale of lottery tickets

sold under the provisions of KRS Chapter 154A; (2) The operation of a pari-mutuel system for betting, where authorized by law; (3) The conduct of charitable gaming by a charitable organization licensed or permitted under KRS Chapter 238; or (4) Special temporary raffles of alcoholic beverages under KRS 243.036.

(g) Conviction of the licensee, the licensee's agents, servants, or employees for: (1) The trafficking or possession upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs; (2) Knowingly permitting the trafficking or possession by patrons upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs; or (3) Knowingly receiving stolen property upon the licensed premises.

(h) Failure to comply with the terms of the City Administrator.

I. Proceedings for Revocation or Suspension of License

(1) Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or of the City ABC Administrator, the City ABC Administrator may institute proceedings to revoke or suspend any license granted under this Ordinance. A license may be revoked or suspended only after the licensee shall have been given written notice, by certified or registered mail, of the proposed revocation, including notice of the reasons for such proposed action. The licensee shall be given opportunity to be heard in opposition to the proposed revocation or suspension. The notice of proposed action shall advise the licensee of the date, time and place of the hearing. Notice shall be sufficient if mailed to the licensee at the address shown in the last application for a license or in the last statement supplemental to or in amendment of the application, whether or not the mailing is receipted for or claimed.

(2) The specific procedures to be followed in hearings on actions for revocation or suspension shall provide constitutional due process rights to the City ABC license holder.

(3) A decision of the City ABC Administrator revoking or suspending a license may be appealed to Board as provided in KRS 241.200 and KRS 243.550.

(4) Within three (3) days after any order of revocation or suspension of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his or her license to the City ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the Chief

of Police, at the request of the City ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the City ABC Administrator.

(5) When a license has been revoked or suspended, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.

(6) Appeal from the decision of the City ABC Administrator revoking or suspending a license shall be to the state Board. The timely filing of an appeal shall stay further proceedings for revocation.

(7) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall suspend all operations authorized under his or her license upon finality and effectiveness of the order. Upon finality of any final order of the state Board sustaining or ordering revocation or suspension on appeal, the licensee shall at once suspend all operations authorized under this license.

J. Transfer or Assignment

No license issued under this chapter shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of one hundred dollars ($100.00) shall be made to the City ABC Administrator.

K. Refusal of License

(1) The City ABC Administrator may refuse to issue a license for any of the following reasons:

(a) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales or the administration thereof.

(b) If the applicant has done any act for which a revocation of license would be authorized under local, state, or federal law; or

(c) If the applicant has made any false material statement in his or her application.

(2) An applicant who has been refused a license by the City ABC Administrator may appeal the refusal to the state Board pursuant to KRS 241.200 and KRS 243.550.

L. Review of License; Books, Records and Reports

(1) Applicants to whom a license is issued pursuant to this chapter shall provide periodic information demonstrating compliance with the conditions of any license, such as, but not limited to, the continuing requirement that a minimum percentage of the applicant's business income is earned from the sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. The city shall provide the form schedule to the licensee. The licensee's acceptance of a license to manufacture or traffic in alcoholic beverages shall constitute consent to the filing of the quarterly report. In the case of caterer filing, the quarterly report shall identity each catered event by type of event, date and address of the event, and shall provide a per event breakdown of sales

and the ratio of food sales to alcohol sales during the reporting period. This requirement for filing of reports notwithstanding, the city may at any time come upon the premises of any licensee and examine the books and records to determine whether the licensee is in compliance with all parts of this chapter. In the event the conditions of any license requirement are not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least one (1) year in determining whether or not the food sale percentage requirement has been met.

(2) Every licensee under this Ordinance shall keep and maintain, upon the licensed premises, adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and such city employees who may assist the City ABC Administrator in his or her review.

M. Dormancy

(1) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.

(2) Any license under which no business is transacted during a period of ninety (90) days shall be deemed inactive and, unless the conditions set forth in division (c) below are proved to the satisfaction of the City ABC Administrator, the license shall be surrendered to the City ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the City ABC Administrator.

(3) The provisions of division (b) hereof shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, whether acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Prior to the expiration of ninety (90) days of inactivity, such licensee shall furnish to the City ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business, for any of the specific reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted there under within twelve (12) months from the date of notice to the City ABC Administrator. Such extension may not extend beyond the renewal date but may be for such times as the City ABC Administrator deems appropriate in exercise of his or her sound discretion.

ARTICLE V. HOURS OF SALE

A. Hours of Sale

A licensee for distilled spirits, wine and/or malt beverages shall be permitted to sell distilled spirits, wine and/or malt beverages between the hours of 6:00 a.m. until 11:59:59 p.m. Monday – Saturday. Sales on Sunday, or after 11:59:59 p.m. and before 6:00 a.m., are not permitted.

ARTICLE VI. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

A. Gambling

No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, quarter pushers, prize redemption machines with programmable payouts, or any device of chance is prohibited and shall not be kept on such premises.

B. Radio Receiving Apparatus

It shall be unlawful for any licensee licensed under this Ordinance to have, or maintain, any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in the City as it is now, or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

C. Security

The licensee shall be responsible for maintaining security on his or her premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

D. Prizes and Premiums Prohibited

It shall be unlawful for a licensee to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of malt beverages unless permitted by KRS 244.500.

E. Treating Prohibited

It shall be unlawful for the licensee under this Ordinance to give away any alcoholic beverage to a consumer in any quantity for free or for less than for less than paid or current wholesale cost, unless the licensee holds a sampling license or its license type permits limited free samples (i.e., small farm winery, microbrewery, brewer's), or a bona fide "close out" sale approved by the state Administrators.

F. Drunkenness

No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee sell alcoholic beverages to any person who is actually or apparently under the influence of alcoholic beverages, or known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period. No licensee shall permit any person who is actually or apparently under the influence of alcoholic beverages to remain on the licensed premises. As used herein, whether a person is actually or apparently under the influence of alcoholic beverages shall be determined by the licensee or server with specific reference to the principles and guidelines established in mandatory alcohol server training as to the signs of alcohol intoxication. The licensee shall not sell, give, or deliver any alcoholic beverages to any person who appears to a reasonable person to be actually

or apparently under the influence of alcoholic beverages, controlled substances, other intoxicating substances, or any of these substances in combination, to the degree that the person may endanger any person or property, or unreasonably annoy persons in the vicinity.

G. Underage Sales

The licensee shall not sell, give, or deliver any alcoholic beverages to any person who is under 21 years of age, or permit same.

H. Sign Requirements-Notice to Persons Under the Age of Twenty-One (21)

Per state law, the licensee shall display at all times in a prominent place a sign at least 8" x 11" in thirty (30) point or larger type font which states as follows:

Persons under the age of twenty-one (21) are subject to a fine of up to One Hundred Dollars ($100.00) if they:

(1) Enter licensed premises to buy, or have served to them, alcoholic beverages.
(2) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
(3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

I. License to be Displayed

(1) Pursuant to the requirements set forth in KRS 243.895, the Licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the license, or knowingly deface, destroy or alter the license in any respect.

(2) The licensee shall post in a prominent place easily seen by patrons a printed sign at least least 8" x 11" with gender-neutral language supplied by the Kentucky Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

J. Legal Transactions for Wholesalers, Distributors and Retail

No wholesaler or distributor shall sell any alcoholic beverages to any person in the city for any consideration except under cash terms of the wholesaler or distributor at or before the time of delivery. A wholesaler is also permitted to extend credit for 30 days to a retailer for the purchase of distilled spirits and wine.

K. Employment Restrictions

No licensee shall knowingly employ in connection with his or her business any person who:

(1) Has been convicted of any felony within the last two (2) years unless permitted by KRS 244.090(2);

(2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years unless permitted by KRS 244.090(2);

(3) Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute, unless said person is exempt or permitted by KRS 244.090 or KRS 244.087;

(4) Within two (2) years prior to the date of his or her employment, has had any city license under this chapter revoked for cause.

L. Lavatory Facilities Required

All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumes on the premises.

M. Nudity and Adult Entertainment Activities Prohibited

No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premise. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises. No licensee shall sponsor or permit wet t-shirt or wet clothing contests, lingerie fashion shows, mud wrestling, jello wrestling or similar activities, nor shall a licensee allow dancing with touching for compensation (including but not limited to wages, tips or gratuities), or any other service, display or contest requiring physical contact between patrons and/or patrons and employees on any licensed premises. No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premise in the city.

N. Cause for Revocation

Violation of this and any other Article shall subject the licensee to penalties provided in this Ordinance and shall be cause for revocation or suspension of City licenses.

ARTICLE VII. MINORS

A. Except as specifically authorized under KRS Ch. 241 to 244, no person under the age of 21 may possess alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages.

B. As provided in KRS 244.085 and 804 KAR 5:070, no person under the age of 21, except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. No person under the age of 21, may enter any premises licensed for drink sales of alcoholic beverages unless permitted by KRS 244.085(5) and 804 KAR 5:070. The prohibition contained in this subsection shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, and other business types listed in KRS 244.085 and by the state Board in 804 KAR 5:070.

C. No person shall knowingly permit, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licenses, as set out in this Ordinance, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.

D. No person being the owner or occupant or otherwise in possession or control of any property located within the city shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.

E. It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.090.

ARTICLE VIII. CONSUMPTION ON PREMISES PROHIBITED

A. Consumption at Package Store Prohibited

(1) No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises unless it also holds the appropriate drink license. The licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.

(2) This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries And wineries under the provisions of KRS Ch. 243, or where sampling is permitted for a retail distilled spirits and wine licensee under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:030.

B. Habitual Congregating

(1) Definitions. In addition to the definitions contained in KRS Chapters 241 to 244, as used in this Article, the following terms are defined as follows:

(a) *Habitual* shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;

(b) *Package Liquor Store* shall mean a retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes;

(c) *Public Nuisance* shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by or the health, safety and welfare of the public; and

(d) *Vacant Property* shall mean a vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

(2) Licensed Premises. No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.

(3) Vacant Property. No person or entity being the owner or otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.

(4) It shall be a defense to any prosecution under Article VIII, if a licensed vendor or property owner shall permit the City of post and maintain a legible, painted or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons in prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.

ARTICLE IX. MALT BEVERAGE KEG REGISTRATION

A. Definitions

As used in this section, "Keg" is defined as a container designed and capable of holding six (6) or more gallons of malt beverage.

B. Malt Beverage Keg Identification Tag

All retail licensees (herein after referred to as "licensee") operating within the City who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the city to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:

(1) The purchaser is of legal age to purchase, possess and use the malt beverage;
(2) The purchaser is not purchasing the keg for resale and will not allow any person under the age of twenty-one (21) to consume the malt beverage;
(3) The purchaser will not remove, obliterate or allow to be removed or obliterated the Identification tag;
(4) The purchaser will state the property address where the keg will be consumed and physically located; and
(5) The purchaser is aware of his/her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

C. Keg Registration

(1) The licensee shall obtain the name, address and telephone number of the purchaser and shall require the purchaser to produce a valid driver's license number and, if that is not available, to produce at least one other valid form of identification.

(2) The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.

(3) The keg registration form shall be forwarded to the city within five (5) working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.

(4) The city is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

(5) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the city concerning the provisions of this section.

D. Unlawful Sales

It shall be unlawful for any licensee to sell or offer for sale kegs without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have the declaration form visible and readily accessible from the location of the keg. The penalties for violation of this section shall be the penalties as set out in this Ordinance. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

ARTICLE X. ENFORCEMENT

A. Enforcement

City police officers and the City ABC Administrator and his/her Investigator(s) are hereby authorized to enforce this Ordinance in full.

ARTICLE XI. PENALTIES

A. Penalties

(1) In addition to any criminal prosecution instituted in the Scott District Court against an alleged violator, the City ABC Administrator may assess civil fines in lieu of suspension as authorized in KRS 243.480, including the per diem assessments for ongoing violations. Payment of all fines shall be remitted to the City ABC Administrator, who shall then transmit the fines to the City Clerk for deposit in the appropriate designated account.

(2) Any person who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall be guilty of a misdemeanor and shall for the first offense be fined not less than one hundred dollars ($100.00) nor more than two hundred dollars ($200.00), or be imprisoned in the county jail for not more than six months or both or both; and for a second offense, not less than two hundred dollars ($200.00) and not more than five hundred dollars ($500.00), or imprisoned for not more than twelve months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be fined or imprisoned, or both.

ARTICLE XII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

A. Mandatory Responsible Beverage Service Training

(1) All persons employed in the selling *and/or* serving of alcoholic beverages shall participate in and complete a server training course by the Kentucky Department of Alcoholic Beverage Control or other City-approved alcoholic beverage server training program.

(2) All persons required to complete training shall complete training within thirty (30) days of the date on which the person first becomes subject to the training requirement. When a new business is licensed to serve alcoholic beverages all employees must be trained prior to the opening of the business.

(3) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed must have at least one person currently certified in responsible beverage service training on duty when alcoholic beverages are being served.

(4) All persons completing the training required by this section shall be re-certified not less than once every three (3) years thereafter.

ARTICLE XIIL. SIGNS AND ADVERTISING.

A. All signage shall be in compliance with any and all other existing rules, regulations, and Ordinances of the City of Sadieville, including but not limited to, the Planning and Zoning Ordinance as currently enacted, and/or as may be amended in the future.

B. No flashing lights shall be used to illuminate the exterior of any premises licensed under this Ordinance.

C. Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

D. No licensee shall publish or display advertising that is false or misleading, nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any known athlete is depicted or referred to, nor shall any licensee publish or display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or the use of terms such as "high test", "high proof" or "extra strong") or depicting activities that tend to encourage excessive consumption.

E. No licensee shall erect or allow to be erected any banner that displays any particular brand of alcoholic beverage on the outside of the building or on the property.

F. Any off premises signage advertising the sale of alcoholic beverages is prohibited. It shall be unlawful to attach signage advertising alcoholic beverages to the exterior of the building or the exterior premises of the business. This prohibition shall include the use of outdoor umbrellas or other outdoor or patio fixtures that feature the name or logo of an alcoholic beverage or manufacturer of alcoholic beverages.

G. Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises business cards not larger than two and one-half inches (2-1/2") in size, setting forth the price at which the licensee offers alcoholic beverages for sale.

H. It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium of advertising alcoholic beverages.

I. No licensee shall advertise alcoholic beverages on any municipally owned property or at any municipally sponsored event.

ARTICLE XIV. SIDEWALK CAFÉ PERMIT

A. Sidewalk Café Permit

(1) Licensees in the downtown business district/area may request a permit to use sidewalk as an adjunct to the primary and adjacent licensed premises to serve food and alcoholic beverages there. In the case of permitted sidewalk cafes, they shall be deemed part of the licensed premises.

(2) Any licensee/restaurant that is licensed under this Ordinance and the provisions of the state ABC laws, may, upon application to the local ABC Administrator, ask permission to expand the operation of the business/ restaurant onto a part, and only that part, of the public sidewalk which immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit.

B. Conditions for Sidewalk Café Permit

The issuance of a permit shall be subject to the following conditions and restrictions; provided, however, that the ABC Administrator may without adverse hearing procedures impose additional reasonable restrictions or withdraw approval upon the operation of any sidewalk café where necessary in the judgment of the said Administrator to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing:

(1) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.

(2) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. They shall be removed at the end of each business day at the hour specified in the permit. Umbrellas, tables, chairs, and other portable appurtenances shall be confined to the area shown on the approved Permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

(3) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.

(4) The licensee shall, in addition to all other requirements of law, take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passersby or persons who are not of age or who are obviously or apparently intoxicated.

(5) No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.

(6) No amplified sound shall be used within a sidewalk café. At no time shall any music originating from any part of the premises create a nuisance.

(7) Dancing shall not be permitted or allowed in the sidewalk café;

(8) The licensee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol and the operation of the premises;

(9) The permit for sidewalk café may not be assigned or transferred.

C. Other Requirements Applicable to Sidewalk Cafes

No sidewalk café permit shall be effective unless the licensee has filed with the City Administrator evidence of insurance, insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of such sidewalk café, in an amount to be established by the City Attorney and the City's Safety Coordinator. The city shall be named an additional insured in the policy required. Such insurance policy shall further provide expressly that it may not be canceled except upon ten (10) day's written notice (or more) filed with the ABC Administrator and the City Attorney.

ARTICLE XV. IMPLEMETATION OF ORDINANCE PROVISIONS; SEVERABILITY

A. Implementation of Changes in Ordinance Provisions

The City Commission may promulgate rules and regulations, and/or amendments thereto, as is in its discretion in order to ensure the proper implementation of this Ordinance. Such will be done as according to local, state, and federal law.

B. Severability

If any section of this Ordinance, including but not limited to, any section, subsection, paragraph, sentence, clause, phrase, or any other portion of this Ordinance, is declared illegal or unconstitutional, or otherwise invalid by a Court of competent jurisdiction, such declaration shall not affect the remaining portions hereof.

C. Effective Date of Ordinance Provisions

The Ordinance shall take effect immediately after its Passage and Publications as required by law.

FIRST READING: January 27, 2020

SECOND READING: February 3, 2020

ROB WAGONER, MAYOR

ATTEST:

CAROL STOTHER, CITY CLERK