

CITY OF LAKE OZARK
A Missouri Municipality of the 4th Class

BILL NO.: 2023-40

ORDINANCE NO.: 2023-40

AN ORDINANCE APPROVING AGREEMENT BETWEEN THE CITY OF LAKE OZARK, MISSOURI AND CERTAIN ESTABLISHMENTS LICENSED TO SELL LIQUOR BY THE DRINK AND AUTHORIZING THE MAYOR OR HIS DESIGNATED AGENT TO EXECUTE THE SAME

WHEREAS, § 205.340 of the Lake Ozark Municipal Code prohibits the possession and consumption of alcohol by persons upon the streets, alleys, sidewalks, and other public property within the City (“Public Property”); and,

WHEREAS, pursuant to § 205.341 of the Lake Ozark Municipal Code, the Board of Aldermen of the City may approve, subject to specified conditions, the possession and consumption of alcohol by persons upon Public Property for certain public events; and,

WHEREAS, the Licensees have requested that the Board of Aldermen of the City approve the possession and consumption of alcohol by persons upon Public Property for the Lake Bike Fest to be held on September 14, 15, and 16 in the City (“the Event”); and,

WHEREAS, the Board of Aldermen of the City has agreed to approve the Licensees’ request for the allowance of the possession and consumption of alcohol upon Public Property for the Event, subject to the terms set forth in the Agreement attached hereto.

NOW, THEREFORE, BE IT BE ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF LAKE OZARK, MISSOURI AS FOLLOWS:

Section 1. Adoption and Execution. The Agreement, attached hereto as Exhibit 1, is hereby adopted and approved. The Mayor or his designated agent is authorized to execute said Agreement for and on behalf of the City.

Section 2. Effective Date. This ordinance shall take effect and be in full force immediately after its adoption by the Board of Aldermen of the City of Lake Ozark.

Intentionally Blank Blow This Line

First Reading: September 12, 2023

Second Reading: September 12, 2023

DULY READ AND APPROVED THIS 12th DAY OF SEPTEMBER 2023.

Alderman Jackson	Aye
Alderman Watts	Aye
Alderman Thompson	Aye
Alderman Neels	Aye
Alderman Ridgely	Aye
Alderman Denny	Aye

APPROVE:

ATTEST:


Dennis Newberry, Mayor


Kathy Yance, City Clerk



AGREEMENT

THIS AGREEMENT is made and entered into on this 12th day of September, 2023 by and between the City of Lake Ozark, Missouri, a political subdivision of the State of Missouri, hereinafter referred to as the "City", and Alley Cats, Blondies, Brick House Cajun, Caribbean Mix, Casablanca, Ice Hole, Lucky's, Lucy's, Malted Monkey, Marty Byrde's, Neon Taco, Rock Island, Roxie's Roadhouse, SNAFU, and Tucker's Shuckers, hereinafter collectively referred to as the "Licensees".

WITNESSETH:

WHEREAS, § 205.340 of the Lake Ozark Municipal Code prohibits the possession and consumption of alcohol by persons upon the streets, alleys, sidewalks, and other public property within the City ("Public Property"); and,

WHEREAS, pursuant to § 205.341 of the Lake Ozark Municipal Code, the Board of Aldermen of the City may approve, subject to specified conditions, the possession and consumption of alcohol by persons upon Public Property for certain public events; and,

WHEREAS, the Licensees have requested that the Board of Aldermen of the City approve the possession and consumption of alcohol by persons upon Public Property for the Rally on the Strip to be held September 13-16, 2023 in the City ("the Event"); and,

WHEREAS, the Board of Aldermen of the City has agreed to approve the Licensees' request for the allowance of the possession and consumption of alcohol upon Public Property for the Event, subject to the terms set forth in this Agreement;

NOW, THEREFORE, the parties have agreed and do hereby agree as follows:

1. Outdoor Consumption Permit. The City hereby approves the possession and consumption of alcohol by Licensees, their guests, invitees and patrons upon Public Property for the Event on the following terms:

- (a) The possession and consumption of alcohol upon Public Property for the Event shall be allowed in a designated area to be known as the Event Area. The Event Area must be legally described and delineated on a map as to clearly define the Event Area. The map must be attached hereto and made a part of this Agreement.
- (b) The Event Area must be fenced to the satisfaction of the City to ensure compliance with this Agreement, the ordinances of the City, and the laws of the State of Missouri.
- (c) The Licensees shall be responsible for the posting of signs that clearly designate the Event Area, which shall also include following:

- (1) That no person shall possess or consume any beverage within the Event Area except for those persons wearing an identifiable wrist band approved by the City.
 - (2) That all persons purchasing and consuming an alcoholic beverage in the Event Area must be twenty-one (21) years of age or over, and must at all times must be wearing their wristband as designated by the Licensees on the their wrist to indicate that they are twenty-one (21) years of age or over and also have on their person a valid form of picture identification for verification.
 - (3) Anyone disrupting the Event or found to be in violation of the ordinances of the City or the laws of the State of Missouri will be required to leave the Event Area immediately and shall not be permitted to return.
- (d) All establishments that sell alcohol by the drink at retail, which are located within the Event Area, must execute this Agreement and the Revocable License Agreement reference in paragraph 1(e) below.
 - (e) All Licensees must execute the Revocable License Agreement, a copy of which is attached hereto and incorporated herein by this reference, with the City.
 - (f) The Licensees are authorized to close the following street(s) located within the Event Area from 1516 Bagnell Dam Blvd. to 1084 Bagnell Dam Blvd, for the period of September 14, 2023 7:00 pm to 1:30 am; September 15, 2023 11:00 am to 1:30 am; and September 16, 2023 from 11:00 am to 1:30 am. The Licensees shall be responsible for setting up and removing street barricades for the Event.
 - (g) The Licensees may prohibit the sale of food or beverages within the Event Area, except as allowed by the Licensees.
 - (h) The Licensees may prohibit any commercial activity, including the distribution of commercial advertisements within the Event Area, except for those allowed by the Licensees.
 - (i) The Licensees may remove from the Event Area any person or persons who are disrupting the activities of the Event. The term "disrupting" shall include, but not be limited to, loud noise, obstructing the views of others, obstructing the flow of pedestrian traffic, or interfering with the Licensees' staff or volunteers; provided however, the term "disrupting" does not allow the Licensees to prohibit the distribution of petitions, pamphlets, or speech (political or free speech) which is not disruptive.
 - (j) The Licensees may sell alcohol in the Event Area provided the Licensees are properly licensed by the State, County and the City to sell alcohol by the drink at retail within said Event Area.
 - (k) All persons purchasing any alcoholic beverage in the Event Area must be twenty-one (21) years of age or over and shall have a wristband as designated by the Licensees on his or her wrist to indicate that they are twenty-one (21) years of age or over.

- (l) Wristbands must be placed on all persons twenty-one (21) years of age or over intending to possess or consume alcohol within the Event Area at a specified central location within the Event Area.
- (m) Wristbands must remain on the person's wrist at all times when consuming alcohol within the Event Area.
- (n) Persons with a proper wristband who are within the Event Area shall not be considered to be possessing or consuming alcohol upon Public Property.
- (o) Anyone found violating the terms of this Agreement, the ordinances of the City or the laws of the State of Missouri must be required to leave the Event Area immediately and shall not be permitted to return.
- (p) The Licensees shall post a security deposit with the City in an amount of \$500.00 to cover the costs of clean up for the Event and for any damage caused to Public Property during the Event.
- (q) At least one Licensees must be a resident or licensed business owner of the City.
- (r) Excluding the interior of the business premises of all Licensees, no glass containers of any type shall be allowed in the Event Area.**
- (s) The Licensees shall reimburse the City for the costs associated with law enforcement personnel deemed necessary to police the Event over and above the normal force for the time period in question. The rate would be \$35 per hour per officer.

2. Duration of Agreement. The rights granted Licensees under this Agreement with respect to the Event Area shall be revoked, terminated and no longer be in effect upon: (a) the end of the Event or no later than 1:30 am on September 17, 2023; (b) the Licensees' cessation, cancelation or abandonment of the Event; or (c) the City's determination that the Licensees' have materially breached the terms of this Agreement or have violated the ordinances of the City or the laws of the State of Missouri as it relates to the Event. In the event the City determines that the Licensees have materially breached the terms of this Agreement or have violated the ordinances of the City or the laws of the State of Missouri as it relates to the Event, the City shall notify the Licensees in writing of the revocation and termination of this Agreement and the Licensees shall immediately close the Event Area.

3. No Assignment. The Licensees shall not assign or delegate any interest in this Agreement. Any rights granted under this Agreement are granted solely to the Licensees and to no other person or entity.

4. Amendments. Any change in this Agreement whether by modification and/or supplementation, must be accompanied by a formal amendment signed and approved by the duly authorized representatives of the Licensees and the City.

5. **Authority to Execute.** The signers of the Agreement warrant that they are acting officially and properly on behalf of their respective institutions, if applicable, and have been duly authorized, directed and empowered to execute this Agreement.

6. **Severability.** If any clause or provision of the Agreement is found to be void or unenforceable by a court of proper jurisdiction, the remaining provisions not void or unenforceable shall remain in full force and effect.

7. **Survivability.** If the City suffers any damage because of the Licensees' violation of the terms of this Agreement, the parties agree that the City shall have the right to pursue any action at law, suit in equity or other judicial proceeding against the Licensees with respect to said damage and that such causes of action shall survive the duration of this Agreement.

8. **Missouri Law to Govern.** This Agreement shall be construed according to the laws of the State of Missouri.

9. **Venue.** Any action at law, suit in equity or other judicial proceeding to enforce or construe this Agreement, or respecting its alleged breach, shall be instituted only in the Circuit Court of Miller County, Missouri.

10. **Notices.** Any notice or communication required or permitted to be given hereunder shall be in writing and shall be deemed given after delivery by United States mail, postage prepaid, or upon receipt by person or facsimile delivery addressed as follows: City of Lake Ozark, P.O. Box 370, Lake Ozark, MO 65049 and to the Licensees, at the address on file with the City of Lake Ozark, or at such other places as the parties may designate in accordance with this Agreement.

11. **Entire Agreement:** This Agreement represents the entire understanding between the parties regarding this subject and supersedes all prior written or oral communications between the parties regarding this subject.

12. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

For the City:



Dennis Newberry, Mayor

Dated: 10/13/23