

SECTION 1. Article I - III of Chapter 136 of the Code of the City of Saratoga Springs, entitled "Lodging, Eating and Drinking Establishments and Cabaret - is hereby amended to read (new material underlined, old material in brackets):

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Chapter 136

Lodging and Eating and Drinking Establishments

[HISTORY: Adopted by the City Council of the City of Saratoga Springs 4-20-2004; amended in its entirety 4-5-2012. Subsequent amendments noted where applicable.]

Article I

Lodging Establishments

§ 136-1 Definitions.

As used in this article, the following terms shall have the meanings indicated:

BED-AND-BREAKFAST

A private residential structure, either owner-occupied or under the supervision of a resident manager, in which rooms and meals are made available to lodgers for compensation and incidental to the residential use. Bed-and-breakfast establishments are classified as follows:

- A. Level 1: not more than five rooms, not more than 10 lodgers, food served only to lodgers.
- B. Level 2: more than five but not more than 10 rooms, not more than 20 lodgers, food served only to lodgers.

HOTEL/MOTEL

A public building or group of public buildings in which more than six rooms are made available to lodgers for compensation for any rental period, which has a lobby and a register, and that may offer food service for compensation to lodgers or to both lodgers and the public. Food service to the public shall require a food establishment license pursuant to Article II of this chapter.

INN

A private residential building in which more than 10 but not more than 25 rooms are made available to not more than 50 lodgers for compensation; food served only to lodgers.

ROOMING HOUSE

A single-family or two-family private residential structure, owner-occupied or under the supervision of a resident manager, in which rooms are made available to lodgers for compensation and in which food may also be provided to lodgers for compensation. Rooming houses shall provide lodging to people for a rental period of no less than 28 consecutive days. A rooming house may have a common kitchen facility available to lodgers but shall have no kitchen or dining facilities in any guestroom. Rooming houses are classified as follows:

- A. Neighborhood rooming house, as classified in Article II, Use Schedule, of the Zoning Ordinance, Level I: no more than four rooms.
- B. Corridor rooming house, as classified in Article II, Use Schedule, of the Zoning Ordinance, Level II:

more than four rooms but not more than 10 rooms.

§ 136-2 Lodging establishment permit required.

No person, corporation, firm or other entity shall engage in the business of operating a bed-and-breakfast, rooming house, inn, hotel or motel in the City of Saratoga Springs unless and until a lodging establishment permit for such an establishment has been obtained pursuant to this article.

§ 136-3 Construal of provisions.

- A. Nothing in this article shall be construed so as to supersede or limit any of the provisions of the New York State Building and Fire Codes, the New York Public Health Law and Sanitary Codes, the New York State Workers' Compensation Law, the Zoning Ordinance of the City of Saratoga Springs, or any law which imposes a tax of any kind upon any of the establishments described by this chapter. It shall be the responsibility of each applicant to determine if his or her lodging establishment is in compliance with all applicable laws.
- B. No license issued under this article shall be construed as granting authority for any event, celebration or other gathering, whether social or business related, that includes persons who are not lodgers at the lodging establishment, nor for any event defined as a "special event" under the Zoning Ordinance of the City or under Chapter 69 of the City Code.

§ 136-4 Application for permit.

An application for a lodging establishment permit shall be made in writing on forms provided by the Commissioner of Accounts and shall include the following information:

- A. General information.
 - (1) Name, address, and telephone number of the applicant(s).
 - (2) Type of lodging establishment applied for and services provided to lodgers.
 - (3) Location of the establishment by street address, with telephone number.
 - (4) Name of the owner(s) of the property, address of the owner(s) and telephone number(s).
 - (5) The locations, together with a narrative description, of all fire protection equipment to be used on the premises.
 - (6) If applicable, the bars or other similar service locations where alcoholic beverages will be served in the establishment.
- B. Insurance. **[Amended 11-5-2012; 2-5-2013]**
 - (1) A certificate of insurance for commercial general liability insurance, including personal injury liability insurance, in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, naming the City of Saratoga Springs as an additional insured. The City shall be included as an additional insured on said insurance for the permit process.
 - (2) Proof of New York State statutory workers' Compensation and employers' liability insurance for all employees, or a waiver of same as permitted by law.
 - (3) (Reserved)
 - (4) If the applicant will employ security guards, proof from the New York State Department of State, Division of Licensing Services, that the applicant complies with the requirements of the Article 7-A of

the General Business Law relative to the employment of security guards.

- C. A fully executed hold-harmless agreement, in a form satisfactory to the City, by which the applicant shall indemnify and save harmless the City and its agents and employees from and against all claims, damages, loss and expense (including but not limited to attorney's fees), arising out of or resulting from the licensed activity, sustained by any person or persons, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property caused by the tortious act or negligent act or omission of the applicant, or the applicant's employees, agents or subcontractors.
- D. If the establishment will employ security guards:
 - (1) Proof of registration and licensure from the New York State Division of Criminal Justice Services that the applicant has a security guard license authorizing the applicant to employ security guards at the establishment.
 - (2) The locations of any fixed stations for security guards to be maintained at the establishment.
 - (3) A description of a distinctive identifying uniform, emblem or other identification to be worn on the person of all security guard personnel at all times when employed on the premises. All such identification must show the name of the establishment and must be in a form approved by the Department of Public Safety.
 - (4) Proof of New York State certification for all persons employed as security guards, to be submitted within five business days of the commencement of employment.
- E. Proof of all other certifications, licenses or authorizations required under New York State law or regulations.
- F. Any additional information reasonably necessary for the Commissioner of Accounts to review the application.
- G. The application shall also include a detailed set of plans which shall show:
 - (1) A floor plan indicating the location of all rooms, hallways, doors, windows, reception areas, kitchen facilities, bathroom facilities, and exits.
 - (2) The location of the structure relative to the parcel or parcels of land, and relative to adjacent streets, sidewalks, and public ways.
 - (3) The location of any on-site parking facilities.
 - (4) A narrative summary of all proposed uses on the premises.

§ 136-5 Application to be reviewed.

The application shall be submitted to the Commissioner of Accounts. Upon receipt, the Commissioner shall refer the application for the lodging establishment to the Building Department, the Office of Risk and Safety, and the Department of Public Safety for comments and recommendations. The Building Department and the Department of Public Safety shall have authority to impose such restrictions and/or modifications upon the application that will ensure compliance with all applicable laws and regulations of the State of New York and of the City of Saratoga Springs.

§ 136-6 Issuance of permit.

Upon the completion of all reviews by the Building Department, the Office of Risk and Safety, and the Department of Public Safety and upon determining that the provisions of this article have been complied

with, the Commissioner of Accounts shall have authority to issue a lodging establishment permit. The Commissioner shall also have authority to impose reasonable conditions in the public interest upon any lodging establishment permit issued. Any conditions imposed shall be plainly noted on or attached to the issued lodging establishment permit. Each lodging establishment permit shall indicate the name of the lodging establishment, the name of the applicant, the fee paid, the type of lodging establishment, the location of the lodging establishment, the expiration date of the lodging establishment permit, the date of issue, the signature of the Commissioner of Accounts, the date of fire inspection and the number of the health certificate issued to the lodging establishment.

§ 136-7 Fees.

[Fees for lodging establishment permits under this article shall be as follows:] Fees shall be established from time to time by the City Council for the licensure of lodging establishments. A schedule of all such fees will be available for review in the Office of the City Clerk and on the City's webpage.

A. Payment of the applicable fee under tis section shall be due upon filing or renewal of the lodging annual license.

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Lodging Establishments, All Categories

Number of Rooms	<u>See City Fee Schedule</u>
5 or fewer	[\$25]
6 to 10	[\$50]
11 to 25	[\$75]
26 to 100	[\$100]
100 or above	[\$150]

§ 136-8 Record of lodgers.

Each holder of a lodging establishment permit under Article I of this chapter shall keep an accurate record of the names and addresses of lodgers who occupy rooms in the lodging establishment. This record shall also identify which rooms in the establishment were occupied each day or part thereof and how many persons occupied each room.

§ 136-9 (Reserved)

**Article II
Eating and Drinking Establishments**

§ 136-10 Definitions.

As used in this article, the following terms shall have the meanings indicated:

EATING AND DRINKING ESTABLISHMENT

- A. Any establishment where food and/or drink or ingredients are mixed, combined, cooked or otherwise prepared and then served or made available, for a charge, to persons.
- B. Exclusions. The following activities shall be excluded from the definition of "eating and drinking establishment" in Subsection A above:

- (1) Any food service that is not subject to regulation and permit from the State of New York.
- (2) Service of food prepared and served or made available by a caterer pursuant to regulations of the Department of Health.
- (3) Service of food by a church, fraternal or membership organization or other similar not-for-profit organization, provided such food service is done only on an occasional basis.
- (4) Service of food by a school or by an establishment that provides medical care and/or treatment.

§ 136-11 Eating and drinking establishment permit required.

No person, corporation, firm or other entity shall engage in the business of operating an eating and drinking establishment in the City of Saratoga Springs unless and until an eating and drinking establishment permit has been obtained pursuant to this article.

§ 136-12 Application for permit.

An application for an eating and drinking establishment permit shall be made in writing on forms provided by the Commissioner of Accounts and shall include the following information:

A. General information.

- (1) Name, address, and telephone number of the applicant(s).
- (2) Type of eating and drinking establishment applied for and services provided to customers.
- (3) Location of the establishment by street address, with telephone number.
- (4) Name of the owner(s) of the property, address of the owner(s) and telephone number(s).
- (5) The locations, together with a narrative description, of all fire protection equipment to be used on the premises.
- (6) If applicable, the bars or other similar service locations where alcoholic beverages will be served in the establishment.

B. Insurance. **[Amended 11-5-2012; 2-5-2013]**

- (1) A certificate of insurance for commercial general liability insurance, including personal injury liability insurance, in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, naming the City of Saratoga Springs as an additional insured. The City shall be included as an additional insured on said insurance for the permit process.
 - (2) Proof of New York State statutory workers' compensation and employers' liability insurance for all employees, or a waiver of same as permitted by law.
 - (3) (Reserved)
 - (4) If the applicant will employ security guards, proof from the New York State Department of State, Division of Licensing Services, that the applicant complies with the requirements of the Article 7-A of the General Business Law relative to the employment of security guards.
- C. A fully executed hold-harmless agreement, in a form satisfactory to the City, by which the applicant shall indemnify and save harmless the City and its agents and employees from and against all claims, damages, loss and expense (including but not limited to attorney's fees), arising out of or resulting from the licensed activity, sustained by any person or persons, provided that any such claims, damage, loss or

expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property caused by the tortious act or negligent act or omission of the applicant, or the applicant's employees, agents or subcontractors.

D. If the establishment will employ security guards:

- (1) Proof of registration and licensure from the New York State [Division of Criminal Justice Services]Department of State Division of Licensing that the applicant has a security guard license authorizing the applicant to employ security guards at the establishment.
 - (2) The locations of any fixed stations for security guards to be maintained at the establishment.
 - (3) A description of a distinctive identifying uniform, emblem or other identification to be worn on the person of all security guard personnel at all times when employed on the premises. All such identification must show the name of the establishment and must be in a form approved by the Department of Public Safety.
 - (4) Proof of New York State certification for all persons employed as security guards, to be submitted within five business days of the commencement of employment.
- E. Proof of all other certifications, licenses or authorizations required under New York State law or regulations.
- F. Any additional information reasonably necessary for the Commissioner of Accounts to review the application.
- G. The application shall also include a detailed set of plans which shall show:
- (1) A floor plan indicating the location of all rooms, hallways, doors, windows, reception areas, kitchen facilities, bathroom facilities, and exits.
 - (2) The location of the structure relative to the parcel or parcels of land, and relative to adjacent streets, sidewalks, and public ways.
 - (3) The location of any on-site parking facilities.
 - (4) A narrative summary of all proposed uses on the premises.

§ 136-13 Application to be reviewed.

The application shall be submitted to the Commissioner of Accounts. Upon receipt, the Commissioner shall refer the eating and drinking establishment application to the Building Department, the Office of Risk and Safety, and the Department of Public Safety for comments and recommendations. The Building Department and the Department of Public Safety shall have authority to impose such restrictions or modifications upon the eating and drinking establishment application that will ensure compliance with all applicable laws and regulations of the State of New York and of the City of Saratoga Springs.

§ 136-14 Issuance of permit.

Upon the completion of all reviews by the Building Department, the Office of Risk and Safety, and the Department of Public Safety and upon determining that the provisions of this article have been complied with, the Commissioner of Accounts shall have authority to issue an eating and drinking establishment permit. The Commissioner shall also have authority to impose reasonable conditions in the public interest upon any eating and drinking establishment permit issued. Any conditions imposed shall be plainly noted on or attached to the issued eating and drinking establishment permit. Each eating and drinking establishment permit shall indicate the name of the eating and drinking establishment, the name of the applicant, the fee

paid, the type of the eating and drinking establishment, the location of the eating and drinking establishment, the expiration date of the eating and drinking establishment permit, the date of issue, the signature of the Commissioner of Accounts, the date of fire inspection and the number of the health certificate issued to the eating and drinking establishment.

§ 136-15 Fees.

[Fees for permits under this article shall be as follows:] Fees shall be established from time to time by the City Council for the initial and subsequent registration of eating & drinking establishments. A schedule of all such fees will be available for review in the office of the City Clerk and on the City's webpage.

A. _____ [Eating and drinking establishment: \$100.] Payment of the applicable fee under this section shall be due upon filing or renewal of the Chapter 136 application.

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§ 136-16 Regulations for eating and drinking establishments.

An eating and drinking establishment authorized and operated pursuant to this chapter shall:

- A. If applicable, prominently display at all times all licenses and authorization issued by the New York State Liquor Authority for the dispensing and sale of alcoholic beverages.
- B. If applicable, prominently display its license from the New York State [Division of Criminal Justice Services] Department of State Division of Licensing for the employment of security guards on the premises.
- C. Prominently display at all times all licenses and authorizations issued by the New York State Department of Health for the service of food and drink.

**Article III
Cabarets**

§ 136-17 Definitions.

As used in this article, the following terms shall have the meanings indicated:

CABARET

- A. Any room, place or space wherein musical entertainment, singing, dancing or other form of amusement or entertainment is presented.
- B. Exclusions. The following activities shall be excluded from the definition of "cabaret" above:
 - (1) A church, fraternal or membership organization or other similar not-for-profit organization, provided such cabaret is done only on an occasional basis.
 - (2) An establishment that provides medical care and/or treatment.

§ 136-18 Cabaret permit required.

No person, corporation, firm or other entity shall engage in the business of operating a cabaret unless and until a cabaret permit has been obtained pursuant to this article.

§ 136-19 Application for permit.

An application for a cabaret permit shall be made in writing on forms provided by the Commissioner of Accounts and shall include the following information:

- A. General information.

- (1) Name, address, and telephone number of the applicant(s).
- (2) Type of cabaret applied for and services provided to customers.
- (3) Location of the establishment by street address, with telephone number.
- (4) Name of the owner(s) of the property, address of the owner(s) and telephone number(s).
- (5) The locations, together with a narrative description, of all fire protection equipment to be used on the premises.
- (6) If applicable, the bars or other similar service locations where alcoholic beverages will be served in the establishment.

B. Insurance. [Amended 11-5-2012; 2-5-2013]

- (1) A certificate of insurance for commercial general liability insurance, including personal injury liability insurance, in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, naming the City of Saratoga Springs as an additional insured. The City shall be included as an additional insured on said insurance for the permit process.
- (2) Proof of New York State S-[s]tatutory W[w]orkers' Compensation and employers' liability insurance for all employees, or a waiver of same as permitted by law.
- (3) (Reserved)
- (4) If the applicant will employ security guards, proof from the New York State Department of State, Division of Licensing Services, that the applicant complies with the requirements of the Article 7-A of the General Business Law relative to the employment of security guards.

C. A fully executed hold harmless agreement, in a form satisfactory to the City, by which the applicant shall indemnify and save harmless the City and its agents and employees from and against all claims, damages, loss and expense (including but not limited to attorney's fees), arising out of or resulting from the licensed activity, sustained by any person or persons, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property caused by the tortious act or negligent act or omission of the applicant, or the applicant's employees, agents or subcontractors.

D. If the establishment will employ security guards:

- (1) Proof of registration and licensure from the New York State [Division of Criminal Justice Services]Department of State Division of Licensing that the applicant has a security guard license authorizing the applicant to employ security guards at the establishment.
- (2) The locations of any fixed stations for security guards to be maintained at the establishment.
- (3) A description of a distinctive identifying uniform, emblem or other identification to be worn on the person of all security guard personnel at all times when employed on the premises. All such identification must show the name of the establishment and must be in a form approved by the Department of Public Safety.
- (4) Proof of New York State certification for all persons employed as security guards, to be submitted within five business days of the commencement of employment.

E. Proof of all other certifications, licenses or authorizations required under New York State law or

regulations.

- F. Any additional information reasonably necessary for the Commissioner of Accounts to review the application.
- G. The application shall also include a detailed set of plans which shall show:
 - (1) A floor plan indicating the location of all rooms, hallways, doors, windows, reception areas, kitchen facilities, bathroom facilities, and exits.
 - (2) The location of the structure relative to the parcel or parcels of land, and relative to adjacent streets, sidewalks, and public ways.
 - (3) The location of any on-site parking facilities.
 - (4) A narrative summary of all proposed uses on the premises.

§ 136-20 Regulations for cabarets.

A cabaret authorized and operated pursuant to this chapter shall:

- A. If applicable, prominently display at all times all licenses and authorization issued by the New York State Liquor Authority for the dispensing and sale of alcoholic beverages.
- B. If applicable, prominently display its license from the [\[New York State Division of Criminal Justice Services\]](#)[\[NYS Department of State Division of Licensing\]](#) for the employment of security guards on the premises.
- C. Prominently display at all times all licenses and authorizations issued by the New York State Department of Health for the service of food and drink.

§ 136-21 Application to be reviewed.

The application for a cabaret permit shall be submitted to the Commissioner of Accounts. Upon receipt, the Commissioner shall refer the application to the Building Department, the Office of Risk and Safety, and the Department of Public Safety for comments and recommendations. The Building Department and the Department of Public Safety shall have authority to impose such restrictions and/or modifications upon the application that will ensure compliance with all applicable laws and regulations of the State of New York and of the City of Saratoga Springs.

§ 136-22 Issuance of permit.

Upon the completion of all reviews by the Building Department, the Office of Risk and Safety, and the Department of Public Safety and upon determining that the provisions of this article have been complied with, the Commissioner of Accounts shall have authority to issue a cabaret permit. The Commissioner shall also have authority to impose reasonable conditions in the public interest upon any cabaret permit issued. Any conditions imposed shall be plainly noted on or attached to the issued cabaret permit. Each cabaret permit shall indicate: the name of the establishment, the name of the applicant, the fee paid, the type of establishment, the location of the establishment, the expiration date of the permit, the date of issue, the signature of the Commissioner of Accounts, the date of fire inspection, and the number of the health certificate issued to the establishment.

§ 136-23 Fees.

[\[Fees for permits under this article shall be as follows:\]](#)

- A. ~~—————~~[\[Cabaret, all: \\$150.\] Fees shall be established from time to time by the City Council for the initial and subsequent registration of eating & drinking establishments with cabaret. A schedule of all](#)

such fees will be available for review in the office of the City Clerk and on the City's webpage.

B. Payment of the applicable fee under this section shall be due upon filing or renewal of the Chapter 136 application.

Article IV Sidewalk Cafes

§ 136-24 Definitions.

For purposes of this article, the term "sidewalk cafe" shall mean any service of food and/or drink operated, in whole or in part, on a sidewalk or other public property of the City of Saratoga Springs. The regulations in this article shall be in addition to and not in limitation of other regulations in this chapter.

§ 136-25 Sidewalk cafe permit required.

Any person, firm or corporation may operate a sidewalk cafe (hereinafter called "cafe") within the City of Saratoga Springs on any sidewalk within the public right-of-way adjacent to the applicant's place of business upon obtaining a sidewalk cafe permit from the Commissioner of Accounts [(hereinafter called "Commissioner")] of the City of Saratoga Springs.

§ 136-26 Application for permit; fee.

Each applicant for a sidewalk cafe permit under this article shall submit [four] a [copies] rendering of the plans for a sidewalk cafe to the Commissioner of Accounts, together with a nonrefundable fee of \$15. Such plans shall show:

- A. Has met all the application requirements for an eating and drinking establishment license.
- B. Has obtained the approval of the Building Inspector for any railing, flooring or other support or enclosure used in the assembly, operation or enclosure of the sidewalk café. No such railing, flooring or other support or enclosure shall be considered an erection of, an addition to, or a structural alteration of a building or structure unless such railing, flooring, or other support or enclosure is permanently attached to such building or structure. [Amended 9-4-2012 by L.L. No. 2-2012]
- C. For sidewalk cafes that did not have a valid sidewalk café permit on or before July 1, 1992, beginning on January 1, 1993, has obtained the approval of the Design Review Commission (DRC) if the sidewalk café is located in the public right-of-way within any area designated in § 240-7.5.12 (Architectural review districts). The DRC shall use the review criteria for such plans relating to a sidewalk cafe's specific location, size and structure for its compatibility of scale, design and material as set forth in either § 240-7.4 or 240-7.5, whichever is applicable. The DRC shall only have advisory review over colors used for the sidewalk café. Any alteration in the plans for a sidewalk café requires approval from the DRC. Once approval is granted by the DRC, the approved plans are valid and do not require annual approval. The DRC shall only review applications which have the written approval from the Departments of Public Works and Public Safety and the Building Department as specified in § 136-26. Unless this chapter is amended in the future, all sidewalk café structures that have a valid sidewalk café permit on or before July 1, 1992, shall not be subject to the approval of the DRC, except that all modifications to such structures shall be subject to the approval of the DRC. [Amended 9-4-2012 by L.L. No. 2-2012]
- D. For sidewalk cafes that did not have a valid sidewalk cafe permit on or before July 1, 1992, beginning on January 1, 1993, that the applicant has obtained the approval of the Design Review Commission (DRC) if the sidewalk cafe is located in the public right-of-way within any area designated in § 240-7.20 (City landmark or historic districts) or § 240-8.14 (Architectural review districts). The DRC shall

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