

ORDINANCE NO. 1997

AN ORDINANCE AMENDING CITY OF DANVILLE CODE OF ORDINANCES CHAPTER 2.5 (ALCOHOLIC BEVERAGES) ARTICLE VI (CONDITIONS, PROHIBITIONS AND RESTRICTIONS) AND ARTICLE XIV (PATIO AND OUTDOOR SALES).

WHEREAS, the Board of Commissioners of the City of Danville, Kentucky, find it necessary and appropriate to amend the employment restrictions in Section 2.5-80 to comply with a recently enacted law by the Kentucky General Assembly; and

WHEREAS, the Board of Commissioners further find it necessary and appropriate to make certain adjustments to Section 2.5-163 pertaining to conditions for sidewalk café permits in order to be consistent with recent changes to its noise ordinance in Section 8-46;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF DANVILLE, KENTUCKY, as follows:

SECTION ONE:

Section 2.5-80 (Employment Restrictions) in Article 2.5 (Alcoholic Beverages) of the City of Danville Code of Ordinances is hereby amended to read as follows:

Sec. 2.5-80. Employment restrictions.

No licensee shall knowingly employ in connection with the licensed business any person who:

- (a) Has been convicted of any felony within the last two (2) years;
- (b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages within the last two (2) years;

(c) Is under the age of twenty (20) years unless the person is at least 18 years of age and under the supervision of a person twenty (20) years of age or older who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute. A person under the age of twenty (20) years of age shall not have duties that include bartending or any activities listed in KRS 529.010(3). ~~However, at a premise licensed solely with a non-quota retail malt beverage package license, a person that is at least eighteen (18) years of age may be employed to sell packaged malt beverages so long as said person is under the supervision of a person twenty (20) years of age or older;~~

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

SECTION TWO:

Section 2.5-162 (Exception to screening requirement for outdoor sales and service of alcoholic beverages in the case of permitted sidewalk cafes in the downtown business district) in Article 2.5 (Alcoholic Beverages) of the City of Danville Code of Ordinances is hereby amended to read as follows:

Sec. 2.5-162. Exception to screening requirement for outdoor sales and service of alcoholic beverages in the case of permitted sidewalk cafes in the downtown business district.

(a) Licensees in the Downtown Business District may request an exception from this [outdoor screening of patio] provision to permit seasonal and temporary sidewalk cafes that serve food and alcoholic beverages as an adjunct to the primary and adjacent licensed premises. In the case of permitted temporary sidewalk cafes, they shall be deemed part of the licensed premises. ~~A sidewalk café permit is deemed seasonal and temporary in that~~

~~licensees with a sidewalk café permit shall not place tables and seating on public sidewalks on a continuous basis from November 1 through February 28; however, tables and seating may be placed intermittently during this period if appropriate weather occurs.~~

(b) Any food establishment which operates a restaurant, which is defined herein as a food establishment with a kitchen licensed by the Boyle County Health Department, and is licensed under this chapter and the provisions of the state ABC code, may, upon application to the local ABC administrator, ask permission to expand on a seasonal and temporary basis, the operation of that 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. A sidewalk café permit shall be valid for not more than twelve (12) months at a time, but may be renewed upon the submission of a new application.

(c) The ABC Administrator may issue the permit if he or she finds that:

(1) The applicant is licensed under this chapter and the ABC Code for the Commonwealth of Kentucky,

(2) The applicant is in compliance with all conditions and restrictions of said license;

(3) The applicant has all necessary building and use permits, including certification of the Zoning Administrator that the sidewalk café is permitted at the premises location, in addition to a kitchen license issued by the Boyle County Health Department; and

(4) Also finds that the issuance of the Permit would not result in any significant adverse land use impacts.

SECTION THREE:

Section 2.5-163 (Conditions for sidewalk café permits) in Article 2.5 (Alcoholic Beverages) of the City of Danville Code of Ordinances is hereby amended to read as follows:

Sec. 2.5-163 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. Specifically, the permit may be revoked by the ABC Administrator if the conditions listed below are violated or upon the violation of a federal, state or city law. The permit will also be revoked if the food establishment has two (2) or more violations of the nuisance ordinance found in City of Danville Code of Ordinances Chapter 8. If the permit is revoked, the owner of the food establishment shall not be eligible to reapply until one (1) year has passed from the date of the permit revocation.

(a) 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.

(b) ~~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.

(c) 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.

(d) 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.

(e) 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 unless confined to the approved Entertainment Destination Center Zone when the City's Entertainment Destination Center License is active.

(f) ~~No amplified sound shall be used within a sidewalk café~~ Noises related to sidewalk café's and outdoor dining areas shall be permitted in accordance with Sec. 8-46(11). At no time shall any music originating from any part of the premises create a nuisance;

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

(h) 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;

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

SECTION FOUR: This ordinance is effective as soon thereafter as published in the Advocate-Messenger after two successful readings.

SECTION FIVE: If any section, subsection, paragraph, sentence, clause, phrase, or portion of this Ordinance is declared illegal or unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions hereof.

GIVEN FIRST READING AND PASSED ON 07.11.2022.

GIVEN SECOND READING AND PASSED ON 07.25.2022.

APPROVED:



G. MICHAEL PERROS,
MAYOR

ATTEST:


ASHLEY RAIDER, CITY CLERK

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