

## **MUNICIPAL ORDER 1-2021**

### **A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT WITH MILE WIDE BEER COMPANY, LLC, FOR USE OF “THE DISTRICT” NAME AND LOGO ON THEIR NEW LAGER, “THE DISTRICT LIGHT,” TO BE NAMED FOR “THE DISTRICT” IN DOWNTOWN OWENSBORO.**

**WHEREAS**, Mile Wide Beer Company, LLC (Mile Wide) has opened a Taproom located at 119 E. Second Street, Owensboro, KY 42303, and seeks to create a new lager beer that has a special connection to the City of Owensboro and “The District,” a portion of the Owensboro downtown that allows alcoholic beverages to be sold and consumed on public property during weekends and certain permitted special events and has drawn a substantial number of tourists and visitors to the downtown; and

**WHEREAS**, Mile Wide seeks to name its new lager “The District Light,” and believes that it will have a positive economic impact for its Owensboro Taproom and the City itself; and

**WHEREAS**, the Parties now seek to enter into a Memorandum of Agreement (MOA) to establish the terms and conditions for which the City will authorize use of the name “The District” in connection with “The District Light,” by Mile Wide.

**NOW, THEREFORE, BE IT ORDERED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:**

**Section 1.** That the Mayor of the City of Owensboro, Kentucky, be, and he hereby is, authorized and directed to execute a Memorandum of Agreement, by and between the City of Owensboro, Kentucky and Mile Wide Beer Company, LLC, for the purpose of permitting use of “The District” name and logo on their new “The District Light” lager to be

named for "The District" in downtown Owensboro. A copy of said Memorandum of Agreement is attached hereto and incorporated by reference herein.

**Section 2.** That the Mayor, City Manager, and other city staff be, and they hereby are authorized to execute any and all other agreements, instruments or documents necessary and appropriate to effectuate and implement this Memorandum of Agreement and/or documents related thereto.

**INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE READING,** this the 19th day of January, 2021.

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Thomas H. Watson, Mayor

ATTEST:

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Beth Cecil, City Clerk

## **MEMORANDUM OF AGREEMENT**

This Memorandum of Agreement (hereinafter "Agreement"), dated as of January \_\_\_\_, 2021, is made by and between the **CITY OF OWENSBORO**, a municipal corporation of the Home Rule Class created and existing under the laws of the Commonwealth of Kentucky, 101 East Fourth Street, P. O. Box 10003, Owensboro, Kentucky 42302-9003 (hereinafter the "City"), and **MILE WIDE BEER COMPANY, LLC**, a For Profit Kentucky Limited Liability Company, 606 Barret Avenue, Louisville, KY 40204 (hereinafter "Mile Wide"). City and Mile Wide are each a "Party" and collectively the "Parties".

### **RECITALS**

**WHEREAS**, Mile Wide has opened a Taproom located at 119 E. Second Street, Owensboro, KY 42303, and seeks to create a new lager beer that has a special connection to the City of Owensboro and "The District," a portion of the Owensboro downtown that allows alcoholic beverages to be sold and consumed on public property during weekends and certain permitted special events and has drawn a substantial number of tourists and visitors to the downtown; and

**WHEREAS**, Mile Wide seeks to name its new lager "The District Light," and believes that it will have a positive economic impact for its Owensboro Taproom and the City itself; and

**WHEREAS**, the Parties now seek to enter into this Memorandum of Agreement (MOA) to establish the terms and conditions for which the City will authorize usage of the name "The District" in connection with "The District Light," by Mile Wide.

**NOW THEREFORE**, in consideration of these premises and the terms and

conditions hereinafter set forth, the parties to this Agreement hereby agree as follows:

**Section 1. Term of Agreement; Usage of City Trademark.** For a period of three (3) years and beginning on the execution date of this Memorandum of Agreement, the City hereby grants to Mile Wide a license for the temporary use of the City trademark “The District” and associated fonts, lettering, and artwork in the production of their lager beer “The District Light.” This Agreement shall be automatically renewed for one (1) additional term of three (3) additional years, unless either Party gives written notice to the other Party’s intent to terminate this Agreement, which notice shall be given at least ninety (90) days prior to the expiration of the current term, or this Agreement is otherwise terminated in accordance with other sections of this Agreement.

**Section 2. Prior City Approval.** Prior to producing the packaging, artwork, advertising, signage, and other promotional material for “The District Light,” Mile Wide shall submit its final designs to City for review and approval in accordance with the applicable City of Owensboro Advertising Policy and Guideline, a copy of which is attached hereto as Exhibit “A,” to the extent such is in accordance with applicable law. No packaging, artwork, advertising, signage, and other promotional material for “The District Light” shall be produced without the written approval of the City. Any additional cost associated with changes made to the produced artwork, shall be an additional charge and are by and between Mile Wide and any design firm it employs to produce all packaging, artwork, advertising, signage, and other promotional material. Once Mile Wide and City have agreed upon a final design, changes will only be permitted at the sole discretion of City.

**Section 3. Termination.** Failure to comply with Section 2 or the closing or relocation of Mile Wide's business from The District in Downtown Owensboro shall be grounds for termination of this Agreement. The City may terminate this Agreement at any time by giving written notice to Mile Wide of such termination and specifying the effective date as the date of receipt of said written notice.

**Section 4. Indemnity Agreement and Liability Release.** Mile Wide warrants that it is authorized and entitled to advertise the business or product as represented to City and warrants same for the packaging, artwork, advertising, signage, and other promotional material produced and approved by Mile Wide. Mile Wide agrees to indemnify, defend, and hold harmless (including court costs and reasonable attorney fees) the City from any and all liability, losses, claims or damages that Mile Wide may suffer as a result of all claims, demands, costs or judgments against Mile Wide or City arising from the viewing of any images created or for claims, demands, costs or judgments against City for infringement of trademarks, trade names, copyrights, invasion of rights of privacy, defamation, illegal competition, or unfair trade practices. Mile Wide also consents to City use in connection with the services to be performed under this Agreement of any logos, slogans, trademarks, or copyrighted material belonging to Mile Wide and releases City from all liability thereof.

**Section 5. Authority to Enter in Memorandum of Agreement.** The Manager signing below on behalf of Mile Wide represents and warrants that he has been granted full authority on behalf of Mile Wide to execute this binding Agreement with the City of Owensboro.

**Section 6. Waiver.** The failure on the part of either Party hereto to insist in any instance upon a strict observance by the other Party of any provision of this Agreement, shall not be construed as a waiver of that or any other provision of this Agreement and it shall not diminish the right of either Party to demand compliance therewith on any subsequent occasion.

**Section 7. Entire Agreement; Binding Effect.** This Agreement shall constitute the entire agreement between the Parties. Any prior understandings or representations, or any subsequent oral representations or modifications of any kind shall not be binding on either Party except to the extent incorporated herein, in writing, by agreement of the Parties.

**Section 8. Governing Law.** This Agreement shall be governed by and be construed in accordance with, the laws of the Commonwealth of Kentucky in all respects, including all matters of construction, validity and performance. Any dispute involving the terms of this Memorandum of Agreement shall be brought in the State or Federal Courts of Daviess County, Kentucky.

**Section 9. Partial Invalidity.** If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to the persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and such remaining terms, covenants or conditions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**IN TESTIMONY WHEREOF**, witness the signatures of the Parties hereto on this  
the day and date first hereinabove written.

**CITY OF OWENSBORO:**

\_\_\_\_\_  
Thomas H. Watson, Mayor

ATTEST:

\_\_\_\_\_  
Beth Cecil, City Clerk

**MILE WIDE BEER COMPANY, LLC:**

\_\_\_\_\_  
Matthew Eugene Landon, Manager

COMMONWEALTH OF KENTUCKY     )  
   )     Sct.  
COUNTY OF DAVIESS                     )

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Thomas H. Watson, as Mayor, and attested by Beth Cecil, as City Clerk, for and on behalf of the City of Owensboro, Kentucky, on this the \_\_\_\_ day of January, 2021.

\_\_\_\_\_  
Notary Public, State of Kentucky at Large  
Notary ID# \_\_\_\_\_  
My commission expires: \_\_\_\_\_

COMMONWEALTH OF KENTUCKY     )  
   )  
COUNTY OF \_\_\_\_\_     )     Sct.

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Matthew Eugene Landon, as Manager, for and on behalf of Mile Wide Beer Company, LLC, on this the \_\_\_\_day of January, 2021.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_ at Large  
Notary ID# \_\_\_\_\_  
My commission expires: \_\_\_\_\_

THIS INSTRUMENT PREPARED BY:

\_\_\_\_\_  
Stephen D. Lynn  
City Attorney  
City of Owensboro, Kentucky  
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