

Sponsors: Administrative

Date Second Reading 11-25-13

Publication Date 11-28-13

ORDINANCE NO. 220.500-11-2013

Franklin

**AN ORDINANCE AMENDING THE PRIOR ORDINANCES RELATING TO
ALCOHOLIC BEVERAGE CONTROL**

WHEREAS, the Kentucky General Assembly adopted significant changes to the Kentucky Revised Statutes related to alcoholic beverage control during its 2013 session; and

WHEREAS, the changes to the statutes require amendments to the City of Franklin Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FRANKLIN, KENTUCKY as follows:

ARTICLE I shall be amended as follows:

Section 1.2 Purpose.

The purpose of this chapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization of ~~KRS Chapters 241 through 244~~ the Kentucky Revised Statutes.

Section 1.3 Definitions.

The definitions of the words used throughout this chapter, unless the context requires otherwise or specific definitions are provided herein, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control Statutes and Regulations ~~law (KRS Ch. 241 through 244)~~ of the Commonwealth of Kentucky and all amendments and supplements thereto.

Section 1.5 Adoption.

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

ARTICLE II shall be amended as follows:

Section 2.1 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 the Kentucky Revised Statutes KRS 243.070, there is hereby established a ~~corresponding~~ city license for each of the state licenses authorized by the Kentucky Revised Statutes to be issued by cities described in KRS 243.070. The fee for each city license shall be as set out in the ~~following~~ schedule set forth in Section 2.4 below. In the event the Kentucky Revised Statutes KRS 243.070 shall hereafter be amended to authorize additional city licenses, the fee for each of said additional city licenses shall be the maximum fee provided in the statute as

amended. Each of said licenses shall only be issued as allowed or required by the Kentucky Revised Statutes. Further, all definitions or regulations relating to said licenses shall be incorporated herein by reference. If any discrepancy exists between this or future ordinances and the applicable provisions of the Kentucky Revised Statutes, the applicable provisions of the Kentucky Revised Statutes shall supersede the provisions of the City of Franklin Code of Ordinances.

Section 2.2 Consumption of Drink on Premises; License Required; Fee ("~~RD~~NQ-2 and/or NQ-4" Licenses)

(a) The City Commission, pursuant to the provisions of the Kentucky Revised Statutes~~KRS 242.185~~, has previously determined that economic hardship exists within the city, as is evidenced by its high rate of unemployment, slow rate of growth, loss due to plant closings, and a significant number of vacancies in the business districts. The City Commission has further determined that the licensing authorization contained in sections (b) and (c) could aid economic growth. Further, the City Commission adopts this chapter as a comprehensive, regulatory ordinance covering, inter alia, the licensing and operation of hotels, motels, inns, ~~private clubs and~~ restaurants for the sale of alcoholic beverages by the drink for consumption on the premises. These licenses shall also be known as "NQ-2 Retail Drink Licenses" or "NQ-4 Retail Malt Beverage Drink Licenses," "restaurant drink" or "RD" licenses.

(b) The city shall have the power and authority to issue licenses authorizing hotels, motels, inns, ~~private clubs or~~ restaurants to sell any and all alcoholic beverages by the drink for consumption on the premises. The licenses shall only be issued to hotels, motels or inns containing not less than 50 sleeping units and having dining facilities for not less than 100 persons, or bona fide restaurants open to the general public having dining facilities for not less than 100 persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least 50% of their gross revenue from the sale of food for consumption on the premises; this requirement is and shall be in accord with the Kentucky Revised Statutes~~KRS 242.1295~~. The term "~~private club~~" shall have the meaning and requirements prescribed by ~~KRS 243.270 or any other provisions of KRS 241-244~~. The fee for said licenses shall be as set forth herein.

(c) In accordance with the Kentucky Revised Statutes~~KRS 242.185(4)~~, the City Alcoholic Beverage Control Administrator is authorized to issue any license permitted by KRS 243.070, and the activity thereby licensed is permitted in accordance with state law and city law.

~~(d) Unless a different license fee is provided for in this chapter, the city license fee for any license authorized by KRS 243.070 shall be the maximum license fee allowed to the city by KRS 243.070, as it may be amended from time to time.~~

~~(e) All regulations which may be issued to administer KRS 242.185, this section of this chapter, and any other provision of this chapter or state law, shall conform to the requirements of KRS 241.190.~~

Section 2.3 Limited Restaurant Licenses (“LR” Licenses)

- (a) Restaurants and dining facilities licensed under this Section shall seat a minimum of one hundred (100) persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. Said seating must comply with all fire and safety capacity ratings and regulations.
- (b) The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty.
- (c) Restaurants and dining facilities licensed under this Section shall derive a minimum of seventy (70%) percent of their gross receipts from the sale of food as certified by periodic documentation as provided herein.
- (d) The annual City License fee for a limited restaurant license shall be as set forth herein below \$800.00. The City, with approval of the City Commission, may increase this fee if allowed by the Kentucky Revised Statutes.
- (e) Applicants to whom a license is issued pursuant to this Section 2.3 shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) 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. In the event the seventy percent (70%) food requirement is not met in any particular quarter, the City ABC Administrator shall have the 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 seventy percent (70%) minimum food requirement has been met.

Section 2.4 Distilled Spirits and Wine License Fees.

The following distilled spirits and wine licenses may be issued by the city, the fees for which shall be:

(a) Distiller's license, per annum	\$ 500.00
(b) Rectifier's license, per annum	\$3,000.00
(c) Blender's license, per annum	\$3,000.00
(d) Wholesaler's license, per annum	\$3,000.00
(e) Retail package license, per annum	\$ 600.00
(f) Retail drink, motel drink, airport drink, — restaurant drink or supplemental bar license, per annum (“RD” license)	\$ 600.00
(g) Special temporary liquor (distilled spirits and wine) license per event	\$ 100.00
(h) Restaurant wine license, per annum:	
1. New applicants	\$ 600.00
2. Renewals	\$ 400.00
(i) Special temporary wine license, per event	\$ 50.00
(j) Special temporary auction license, per event	\$ 200.00
(k) Nonresident special agent or solicitor's license, per annum	\$ 40.00

(l) Bottling house distilled spirits license or wine storage license, per annum	\$1,000.00
(m) Souvenir retail liquor license, per annum	\$1,000.00
(n) Horse track license, per annum	\$2,000.00
(o) Caterer's license, per annum	\$ 800.00
(p) Special private club license, per annum	\$ 300.00
(q) Small Farm Winery License	\$ 100.00
(r) Small Farm Winery off premise retail license	\$ 25.00
(s) Transporter's License	\$ 100.00
(t) Convention Center or Convention hotel complex	\$5,000.00
(u) Sampling License	\$ 100.00
(v) Qualified Historic Site License	\$1,000.00
(w) Limited Restaurant Licenses ("LR" license)	\$ 800.00

Distilled Spirit Licenses as set forth in KRS 243.030:

(a) Distiller's License, per annum	\$ 500.00
(b) Rectifier's License, per annum	\$3,000.00
(c) Wholesaler's Distilled Spirit and Wine License. per annum	\$3,000.00
(d) Quota Retail Package License, per annum	\$ 800.00
(e) Quota Retail Drink License, per annum	\$ 800.00
(f) Special Temporary License, per event:	
Beer only	\$ 50.00
Wine only	\$ 50.00
All other alcoholic beverages	\$ 50.00
(g) Nonquota Type 1 Retail Drink License (includes distilled spirits, wine and malt beverages), per annum	\$2,000.00
(h) Nonquota Type 2 Retail Drink License (includes distilled spirits, wine and malt beverages), per annum	\$ 800.00
(i) Nonquota Type 3 Retail Drink License (includes distilled spirits, wine and malt beverages), per annum	\$ 300.00
(j) Distilled Spirits and Wine Special Temporary Auction License, per event	\$ 200.00
(k) Special Sunday Retail Drink License, per annum	\$ 300.00
(l) Extended Hours Supplemental License, per annum	\$2,000.00
(m) Caterer's License, per annum	\$ 800.00
(n) Bottling House or Bottling House Storage License, per annum	\$1,000.00
(o) Limited Restaurant License (includes distilled spirits, wine and malt beverages), per annum	\$ 800.00
(p) Limited Golf Course License (includes distilled spirits, wine and malt beverages), per annum	\$1,200.00

Section 2.5 Malt Beverage License Fees.

The following kinds of malt beverage licenses may be issued by the city, the fees for which shall be:

(a) Brewer's license, per annum	\$ 500.00
(b) Microbrewery license, per annum	\$ 500.00
(c) Distributor's license, per annum	\$ 400.00
(d) Retailer's license, per annum	\$ 200.00
(e) Special temporary license, per event	\$ 25.00
(f) Brew-on-premises license, per annum	\$ 100.00
(g) Distributor's Storage	\$ 250.00
(h) Malt Beverage Warehouse	\$1,000.00
(i) Qualified Historic Site	\$ 250.00

(a) Brewer's License, per annum	\$ 500.00
(b) Microbrewery License, per annum	\$ 500.00
(c) Malt Beverage Distributor's License, per annum	\$ 400.00
(d) Nonquota Retail Malt Beverage Package License	\$ 200.00
(e) Nonquota Type 4 Retail Malt Beverage Drink License, per annum	\$ 200.00
(f) Malt Beverage Brew-On-Premises License, per annum	\$ 100.00

Section 2.6 Certain Special Licenses Defined/Described.

~~(a) Temporary Licenses. A special temporary distilled spirits and wine license or a special temporary wine license may be issued only as set out in KRS 243.260. This license shall authorize the licensee to exercise the privileges of the license for a specified and limited time, not to exceed thirty (30) days. In the case of a nonprofit organization holding a retail malt beverage license, such organization may be issued a distilled spirits and wine special temporary license or a special temporary wine license to sell distilled spirits and wine by the drink on the licensed premises, in conjunction with any public or private event, for a specified and limited time, not to exceed ten (10) days. A malt beverage temporary license may be issued only as set out in KRS 243.290 and is subject to all conditions and regulations provided at the issuance of the license.~~

~~(b) Private Club License. A special private club license may be issued only as authorized in KRS 243.270 to a nonprofit social, fraternal, military, or political organization or club, which for more than one (1) year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded. The privileges of the license shall be exercised only on premises where the general public is excluded.~~

~~(ae) Special License Required for Sunday Sales. No retail drink licensee shall offer alcoholic beverages for sale at any time between 12:00 midnight on Sunday and 6:00 a.m. on Monday unless the licensee shall have obtained a special license for Sunday sales from the Commonwealth of Kentucky.~~

~~(bd) All restrictions and prohibitions applying to regular retail drink distilled spirits and wine licenses and retail malt beverage licenses shall apply to the special licenses, unless otherwise provided by law.~~

Section 2.7 Expiration of License; Proration of Fees.

All city licenses, except temporary licenses, shall begin on May 1 of any year and shall expire on April 30 of the following year. Any licenses issued after October 31 of 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.

Section 2.8 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 Section 11.1 of this chapter.

Section 2.9 Refund of Fees.

(a) Should any licensee under this chapter 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 regarding alcoholic beverages or other cause outside of 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.

(b) In the event a violation of this chapter 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.

ARTICLE IV shall be amended to read as follows:

Section 4.3 Form of Application shall be amended as follows:-

(a) 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 Commonwealth of Kentucky Department of Alcohol Beverage Control~~ABC Board~~ and the City of Franklin, as amended and supplemented from time to time.

(b) 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 Commonwealth of Kentucky Department of Alcohol Beverage Control~~ABC Board~~ and the City of Franklin, including, but not limited to the following-as follows:

1. Name and address;

2. Nature of interest;
3. Whether or not a citizen of the United States;
4. Date of birth;
5. Date residence was established in Kentucky, if a resident of Kentucky. If Franklin resident, indicate when residence was established;
6. 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 chapter;
7. Extent of stock or company ownership;
8. 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.

Section 4.7 Renewal of License.

(a) Every year, except in the case of temporary licenses or those licenses authorized by the Kentucky Revised Statutes to be renewed every two (2) years, 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 existing 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 be payable until application is made for the transfer of said license to a new location.

(b) 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 license.

Section 4.9 Revocation or Suspension.

(a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of the Kentucky Revised Statutes ~~KRS Chapters 241 through 244~~, or any rule or regulation of the ABC Board or of the 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 chapter 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 the Kentucky Revised Statutes ~~KRS Chapters 241 through 244~~ to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his or her sound discretion deems sufficient.

(b) 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.

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

1. Conviction of the licensee or his or her agent or employee for selling any illegal beverages or products on the premises licensed.

2. Making any false, material statements in an application for a license.

3. If within a period of two (2) consecutive years, any licensee or any clerk, servant, agent or employee of the licensee shall have been convicted of two (2) violations of the terms and provisions of the Kentucky Revised Statutes ~~KRS Chapters 241 through 244~~ or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages, or if within such period, any licensee or any clerk, servant, agent or employee of the license shall have twice been convicted of any felony or any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one (1) such felony and one (1) such misdemeanor.

4. Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this chapter or acts of Congress relative to taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof.

ARTICLE V shall be amended to read as follows:

Section 5.1 Hours for Sale and Delivery.

(a) A licensee ~~for that is licensed to sell~~ that is licensed to sell distilled spirits, wine or malt beverages by the drink shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages on Monday through Thursday between the hours of 6:00 a.m. until 12:00 midnight. Further, a licensee ~~for that is licensed to sell~~ that is licensed to sell distilled spirits, wine or malt beverages by the drink on Sunday shall be permitted to sell or dispense said beverages on Sunday from 1:00 p.m. until 12:00 midnight.

(b) The licensee shall not sell or dispense distilled spirits, wine and malt beverages by the drink for consumption on Friday and Saturday, except between the hours of 6:00 a.m. Friday until 2:00 a.m. Saturday, and 6:00 a.m. Saturday until 2:00 a.m. Sunday.

(c) A licensee licensed to sell distilled spirits, wine or malt beverages by the drink may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1; provided that the appropriate licenses have been obtained from both the city and the state ABC Board.

(d) Retail package distilled spirits and wine sales, package malt beverage sales shall be permitted from 6:00 a.m. until midnight each day of the week, except that such package sales shall not be permitted during the hours of 12:00 midnight and 1:00 p.m. on Sunday.

~~_____ (e) _____ The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any election day.~~

ARTICLE VI shall be amended to read as follows:

Section 6.4 shall be amended to read as follows:

All retail malt beverage and retail drink licensees shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises.

ARTICLE VII shall be amended to read as follows:

Section 7.1(a) shall be amended as follows:

(a) Except as specifically authorized under applicable provisions of the Kentucky Revised Statutes KRS Chapters 241 through 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.

ARTICLE VIII shall be amended to read as follows:

Section 8.1 Consumption on Licensed Package Premises Prohibited.

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 said person or entity shall also have a ~~drink~~ license conferring the privilege of consumption on the premises or shall have the NQ-4 license a retail malt beverage license and a city malt beverage drink license, which permits on premises consumption. Any licensee who intends to permit on premises consumption shall, prior to permitting on premises consumption, notify the City ABC Administrator in writing of this decision. A licensee who does not permit on premises consumption shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited. Notwithstanding any other provision herein to the contrary, ~~no malt beverage license or NQ-4 license shall be issued or be allowed to remain valid for any establishment that sells malt beverages by the drink only.~~

Section 8.2 Exceptions.

This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of the Kentucky Revised Statutes KRS Chapter 243, or where sampling is permitted for a quota retail package license or quota retail drink license ~~retail distilled spirits and wine licensee~~ under the provisions of KRS 244.050, or beer tastings as permitted under Kentucky laws or regulations in 804 KAR 11:030.

If any section, subsection, sentence, clause, or phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

NOV 18, 2013 FIRST READING

NOV 25, 2013 SECOND READING

At a meeting of the City Commission of the City of Franklin, Kentucky, held on November 25, 2013, on motion made by Commissioner Mason Barnes and seconded by Commissioner Wendell Stewart, the foregoing ordinance was adopted, after full discussion, by the following vote:

YES LARRY DIXON


YES JAMIE POWELL

YES MASON BARNES

YES WENDELL STEWART

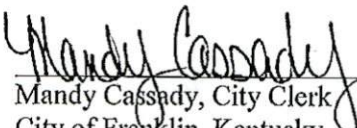
YES RONNIE CLARK, MAYOR

APPROVED BY:



Ronnie Clark, Mayor
City of Franklin, KY

ATTEST:



Mandy Cassady, City Clerk
City of Franklin, Kentucky

CITY OF FRANKLIN

ORDINANCE NO. 220.500-8-2012

AN ORDINANCE RELATING TO ALCOHOLIC BEVERAGE CONTROL

WHEREAS, the City of Franklin, Kentucky has in place certain ordinances pertaining to the traffic of alcoholic beverages pursuant to the authority of KRS 242.185(6) ("Limited Restaurant"); and,

WHEREAS, by duly qualified petition, the question was placed on the ballot on the July 17, 2012 election and was passed by a majority of the voters of the City of Franklin, Kentucky; and,

WHEREAS, Executive Order #2012-07-23 was entered in the Order Book of the County Judge Executive on July 23, 2012, containing the certification of the County Board of Election Commissioners of the results of said election, which is required by KRS 242.200; and,

WHEREAS, KRS Chapters 241-244 grant to cities the authority to promulgate legislation regulating alcoholic beverage sales within the corporate limits; and,

WHEREAS, as a result of which election, effective September 21, 2012, expanded activities in the manufacture and traffic in alcoholic beverages will be permitted; and,

WHEREAS, the City Commission, in the enactment of this ordinance, intends that the enacted ordinance allowing expanded sales protect and benefit the community by:

- Promoting economic health within the community;
- Causing the revenue stream created by expanded sales and activities to have the maximum impact on the economic health of the City of Franklin, Kentucky, and its business owners and citizens;
- Providing expanded entertainment and cultural venues for local citizens and creating increased tourism traffic and activities;
- Protecting our citizens and the character of our neighborhoods, as well as the entire community, from the extremes that may be associated with alcoholic beverage enterprises;
- Recognizing that dollars spent with local businesses have an expanded multiplying effect on the revenue stream of the community; and,
- Realizing that any and all types of alcohol sales venues may not, without proper regulation, be in the best interests of our citizens, their homes, or businesses, and that alcoholic sales venues must be regulated.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FRANKLIN, KENTUCKY as follows:

ARTICLE I. IN GENERAL

Section 1.1 Title.

This chapter shall be known as the "Alcoholic Beverage Control Ordinance" of the City of Franklin, Kentucky.

Section 1.2 Purpose.

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

Section 1.3 Definitions.

The definitions of the words used throughout this chapter, unless the context requires otherwise or specific definitions are provided herein, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control law (KRS Ch. 241 through 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

Section 1.4 Scope.

This chapter 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 or ordinances of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.

Section 1.5 Adoption.

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 chapter, except as otherwise lawfully provided herein.

ARTICLE II. LICENSE REQUIREMENTS.

Section 2.1 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 following schedule. 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.

Section 2.2 Consumption of Drink on Premises; License Required; Fee

(a) The City Commission, pursuant to KRS 242.185, has determined that economic hardship exists within the city, as is evidenced by its high rate of unemployment, slow rate of growth, loss due to plant closings, and a significant number of vacancies in the business districts. The City Commission has further determined that the licensing authorization contained in sections (b) and (c) could aid economic growth. Further, the City Commission adopts this chapter as a comprehensive, regulatory ordinance covering, inter alia, the licensing and operation of hotels, motels, inns, private clubs and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(b) The city shall have the power and authority to issue licenses authorizing hotels, motels, inns, private clubs or restaurants to sell any and all alcoholic beverages by the drink for consumption on the premises. The licenses shall only be issued to hotels, motels or inns containing not less than 50 sleeping units and having dining facilities for not less than 100 persons, or bona fide restaurants open to the general public having dining facilities for not less than 100 persons. The term "bond fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least 50% of their gross revenue from the sale of food for consumption on the premises; this requirement is and shall be in accord with KRS 242.1295. The term "private club" shall have the meaning and requirements prescribed by KRS 243.270 or any other provisions of KRS 241-244. The fee for said licenses shall be as set forth herein.

(c) In accordance with KRS 242.185(4), the City Alcoholic Beverage Control Administrator is authorized to issue any license permitted by KRS 243.070, and the activity thereby licensed is permitted in accordance with state law and city law.

(d) Unless a different license fee is provided for in this chapter, the city license fee for any license authorized by KRS 243.070 shall be the maximum license fee allowed to the city by KRS 243.070, as it may be amended from time to time.

(e) All regulations which may be issued to administer KRS 242.185, this section of this chapter, and any other provision of this chapter or state law, shall conform to the requirements of KRS 241.190.

Section 2.3 Distilled Spirits and Wine License Fees.

The following distilled spirits and wine licenses may be issued by the city, the fees for which shall be:

(a)	Distiller's license, per annum	\$ 500.00
(b)	Rectifier's license, per annum	\$3,000.00
(c)	Blender's license, per annum	\$3,000.00
(d)	Wholesaler's license, per annum	\$3,000.00
(e)	Retail package license, per annum	\$ 600.00
(f)	Retail drink, motel drink, airport drink, restaurant drink or supplemental bar license, per annum	\$ 600.00
(g)	Special temporary liquor (distilled spirits and wine) license per event	\$ 100.00 -
(h)	Restaurant wine license, per annum:	
	1. New applicants	\$ 600.00
	2. Renewals	\$ 400.00
(i)	Special temporary wine license, per event	\$ 50.00
(j)	Special temporary auction license, per event	\$ 200.00
(k)	Nonresident special agent or solicitor's license, per annum	\$ 40.00
(l)	Bottling house distilled spirits license or wine storage license, per annum	\$1,000.00
(m)	Souvenir retail liquor license, per annum	\$1,000.00
(n)	Horse track license, per annum	\$2,000.00
(o)	Caterer's license, per annum	\$ 800.00
(p)	Special private club license, per annum	\$ 300.00
(q)	Small Farm Winery License	\$ 100.00
(r)	Small Farm Winery off premise retail license	\$ 25.00
(s)	Transporter's License	\$ 100.00
(t)	Convention Center or Convention hotel complex	\$5,000.00
(u)	Sampling License	\$ 100.00
(v)	Qualified Historic Site License	\$1,000.00

Section 2.4 Malt Beverage License Fees.

The following kinds of malt beverage licenses may be issued by the city, the fees for which shall be:

(a)	Brewer's license, per annum	\$ 500.00
(b)	Microbrewery license, per annum	\$ 500.00
(c)	Distributor's license, per annum	\$ 400.00
(d)	Retailer's license, per annum	\$ 200.00
(e)	Special temporary license, per event	\$ 25.00
(f)	Brew-on-premises license, per annum	\$ 100.00
(g)	Distributor's Storage	\$ 250.00

such fees are due may be subject to revocation of the license and to other penalties as provided in Section 11.1 of this chapter.

Section 2.8 Refund of Fees.

(a) Should any licensee under this chapter 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 regarding alcoholic beverages or other cause outside of 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.

(b) In the event a violation of this chapter 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.

Section 2.9 Regulatory License Fee .

(a) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee on the gross receipts of the sale of alcoholic beverages of each license issued by the City ABC Administrator. As of the time of adoption of this chapter, the regulatory license fee shall be eight percent (8%) of gross sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits, wine and malt beverages, the regulatory license fee shall be five percent (5%) of gross sales. Thereafter, the City Commission shall adopt at the budget adoption for each subsequent fiscal year, such annual rate for the regulatory license fee as shall be reasonably estimated to ensure full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expense related to the sale of alcoholic beverages in the city. 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 fixed until such time as the City Commission shall adjust the fee.

(b) Payment of such regulatory fee shall be remitted to the City ABC Administrator, and shall be held in a separate account maintained for the purpose of fully reimbursing the city for the estimated cost of any additional policing, regulatory or administrative expense related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, 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 imposed by the city pursuant to KRS 243.070. Payment of the regulatory licensee fee shall accompany the tax return approved for such use by the City Commission or their designee. The return and payment are due no later than by the end of the month immediately following each calendar quarter.

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

(h)	Malt Beverage Warehouse	\$1,000.00
(i)	Qualified Historic Site	\$ 250.00

Section 2.5 Certain Special Licenses Defined.

(a) Temporary Licenses. A special temporary distilled spirits and wine license or a special temporary wine license may be issued only as set out in KRS 243.260. This license shall authorize the licensee to exercise the privileges of the license for a specified and limited time, not to exceed thirty (30) days. In the case of a nonprofit organization holding a retail malt beverage license, such organization may be issued a distilled spirits and wine special temporary license or a special temporary wine license to sell distilled spirits and wine by the drink on the licensed premises, in conjunction with any public or private event, for a specified and limited time, not to exceed ten (10) days. A malt beverage temporary license may be issued only as set out in KRS 243.290 and is subject to all conditions and regulations provided at the issuance of the license.

(b) Private Club License. A special private club license may be issued only as authorized in KRS 243.270 to a nonprofit social, fraternal, military, or political organization or club, which for more than one (1) year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded. The privileges of the license shall be exercised only on premises where the general public is excluded.

(c) Special License Required for Sunday Sales. No licensee shall offer alcoholic beverages for sale at any time between 12:00 midnight on Sunday and 6:00 a.m. on Monday unless the licensee shall have obtained a special license for Sunday sales from the Commonwealth of Kentucky.

(d) All restrictions and prohibitions applying to regular retail drink distilled spirits and wine licenses and retail malt beverage licenses shall apply to the special licenses, unless otherwise provided by law.

Section 2.6 Expiration of License; Proration of Fees.

All city licenses, except temporary licenses, shall begin on May 1 of any year and shall expire on April 30 of the following year. Any licenses issued after October 31 of 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.

Section 2.7 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

(d) Penalty for failure to file a return and pay quarterly remittance by the due date is five percent (5%) of the tax for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax; provided, however, that in no case shall the penalty be less than twenty-five dollars (\$25.00).

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

Section 2.10 Disposition of Fees.

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account.

**ARTICLE III. OFFICE OF THE CITY
ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR**

Section 3.1 Alcoholic Beverage Control Administrator.

(a) Pursuant to KRS 241.160, there is hereby created the office of City Alcoholic Beverage Administrator.

(b) The City Manager shall serve as the City Alcoholic Beverage Administrator (hereinafter referred to as City ABC Administrator), unless the City Manager shall appoint someone else to fill the position pursuant to KRS 241.170.

(c) The City ABC Administrator may from time to time appoint such additional personnel as is necessary to assist him or her in the administration of this chapter.

(d) The salary for the office of the City ABC Administrator, if any, together with the salaries of any other personnel assisting the City ABC Administrator, shall be fixed from time to time by the City Commission.

(e) The functions of the City ABC Administrator shall be the same with respect to the city licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until the City Commission has first appropriately approved it.

(f) 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 ABC Board under KRS 241.100.

(g) The City ABC Administrator shall have all authority as authorized under KRS Chapters 241 through 244. The City ABC Administrator, and the ABC Administrator's

investigators, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(h) Should the City ABC Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, LLC or other business organization, has a criminal record, he shall have the authority to require such person to appear in person at the Franklin Police Department for the purpose of having his or her fingerprints taken.

(i) The City ABC Administrator before entering upon his or her duties as such, shall take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000.00). The City ABC Administrator may require any employee under the City ABC Administrator's supervision to execute a similar bond in such a penal sum as the City ABC Administrator deems necessary.

Section 3.2 Appeals.

(a) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the City ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

(b) When any decision of the City ABC Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the city, and the ABC Board shall have made a decision regarding such appeal or protested application, the City ABC Administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by the final order of the ABC Board. As provided by law, and as used herein, no order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A "final order" of the ABC Board is the order entered by said Board, unless an appeal is taken from the Board's order, in which case the "final order" is the order entered by the Board upon direction from the reviewing court of last resort in the final order of said reviewing court.

ARTICLE IV. APPLICATION AND MAINTENANCE OF LICENSE

Section 4.1 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 a newspaper meeting the requirements of KRS Chapter 424.

(a) The advertisement shall state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership and managers of the LLC if the applicant is an LLC, as well as the name of the business and its

address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the license is sought, and the type of license for which application is made.

(b) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

Section 4.2 Application Fee.

A nonrefundable application fee of fifty dollars (\$50.00) shall be paid with the filing of the application for a city license. If the license is granted, the application fee shall be credited against the initial license fee.

Section 4.3 Form of Application.

(a) 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 ABC Board and the City of Franklin, as amended and supplemented from time to time.

(b) 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 ABC Board and the City of Franklin, including as follows:

1. Name and address;
2. Nature of interest;
3. Whether or not a citizen of the United States;
4. Date of birth;
5. Date residence was established in Kentucky, if a resident of Kentucky. If Franklin resident, indicate when residence was established;
6. 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 chapter;
7. Extent of stock or company ownership;
8. 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.

(c) Each application shall be accompanied by a certified check, cash or a postal or express money order for the amount of the license fee, less the fifty dollars (\$50.00) application fee.

(d) 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 may adopt a statement of guidelines and priorities

for the issuance of licenses and, in order to determine the extent to which applications may further or impede the objectives of those guidelines, the Commission may, by resolution or ordinance, adopt a questionnaire to be submitted to applicants for licenses.

The questionnaire may be altered, expanded, supplemented or replaced by resolution or ordinance of the Commission hereafter. In addition to the information contained in the application and any city ordered questionnaire, 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.

Section 4.4 Other Conditions.

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

(a) 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 the City Building Inspector, and any and all other inspections required by the Kentucky Building Code;

(b) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator; and

(c) No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the city at the time of issuing the license, nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the city. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the city at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

(d) No person, whether an 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 his or her staff, or any state ABC Administrator or staff, in any manner in which an application or proposed application for license, or procedure for revocation or suspension is pending before such officer. This section 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 section. This section shall not be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after

a final order or revocation or suspension, where the chapter and applicable statutes allow for such payments in settlement.

Section 4.5 Form of License.

All city licenses shall be in such form as may be prescribed by the City Commission and shall contain:

- (a) The name and address of the licensee;
- (b) The number of the license;
- (c) The type of license;
- (d) A description by street and number, or otherwise, of the licensed premises;
- (e) The name and address of the owner of the building in which the licensed premises are located;
- (f) The expiration date of the license;
- (g) 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.

Section 4.6 Change of Information.

(a) If after a license to individuals or to a sole proprietor 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 within ten (10) days of the change.

(b) 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.

1. 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.

2. The following information will be required concerning any new manager, partner or LLC member, new director, officer, or person securing any interest in alcoholic beverage license:

- (i) Name and address;
- (ii) Nature of interest;
- (iii) Whether or not a citizen of the United States;
- (iv) Date of birth;

- (v) Date residence was established in Kentucky, if a resident of Kentucky. If a Franklin resident, indicate when residence was established;
- (vi) 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;
- (vii) Extent of stock or company ownership;
- (viii) 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.

3. 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.

Section 4.7 Renewal of License.

(a) Every year, except in the case of 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 existing 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 be payable until application is made for the transfer of said license to a new location.

(b) 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 license.

Section 4.8 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.

Section 4.9 Revocation or Suspension.

(a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of KRS Chapters 241 through 244, or any rule or regulation of the ABC Board or of the 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 chapter 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 Chapters 241 through 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his or her sound discretion deems sufficient.

(b) 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.

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

1. Conviction of the licensee or his or her agent or employee for selling any illegal beverages or products on the premises licensed.

2. Making any false, material statements in an application for a license.

3. If within a period of two (2) consecutive years, any licensee or any clerk, servant, agent or employee of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapters 241 through 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages, or if within such period, any licensee or any clerk, servant, agent or employee of the license shall have twice been convicted of any felony or any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one (1) such felony and one (1) such misdemeanor.

4. Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this chapter or acts of Congress relative to taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof.

5. Unless otherwise authorized by the Commonwealth, setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or 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 such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

Section 4.10 Proceedings for Revocation or Suspension of License.

(a) 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 chapter. 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.

(b) The specific procedures to be followed in hearings on actions for revocation or suspension shall be prescribed by the Board of Commissioners of the City of Franklin by resolution or ordinance. Such order shall be maintained on file in the office of the City ABC Administrator and a copy furnished with any notice of proposed revocation or suspension sent to a licensee. If the Commission shall fail to adopt such resolution or ordinance, the procedures shall be those set out in the Kentucky Administrative Procedure Act (KRS Chapter 13B).

(c) A decision of the City ABC Administrator revoking or suspending a license may be appealed as provided in KRS 243.550.

(d) 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 call on his or her officers to take physical possession of the license and return it to the City ABC Administrator.

(e) 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.

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

(g) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall at once suspend all

operations authorized under his or her license. Upon the entry of a final order of the ABC Board sustaining or ordering revocation or suspension on appeal, the licensee shall at once suspend all operations authorized under this license.

Section 4.11 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.

Section 4.12 Refusal of License; Guidelines for Approval of Quota Licenses.

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

1. 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.

2. If the applicant has done any act for which a revocation of license would be authorized; or

3. If the applicant has made any false material statement in his or her application.

(b) In the case of quota licenses, before approving an application, the City ABC Administrator is hereby directed to consider, in addition to the factors set out in KRS 243.450, 243.490 and 243.500, and any other factors the Administrator determines in his or her discretion to be reasonable and pertinent to the license application, the following criteria:

1. **Ownership.** The City of Franklin places great value on business owner who are invested in the Franklin community.

2. **Economic Impact.** The City of Franklin desires businesses which make the most positive impact on the community, in number of jobs, payroll, property investment and revenues to the city.

3. **Site of Business.** The City of Franklin is interested in serving all geographic areas of the city. Therefore, the city does not wish to cluster all licensed ABC outlets in one area.

4. **Aesthetics.** The City of Franklin is committed to protecting the character and beauty of our community.

5. Capital. The City of Franklin values businesses that demonstrate their ability to financially support and sustain their viability.

6. Public Support of Licensed Business in the Area. The City of Franklin intends that public sentiment and safety be considered in deciding upon the approval of retail liquor sales licenses in any area of the city.

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

Section 4.13 Review of License; Books, Records and Reports.

(a) 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 identify 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.

(b) (1) Every licensee under this chapter shall keep and maintain upon the licensee 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.

(2) For the purpose of assisting the City ABC Administrator in enforcement of this chapter, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by statute shall be furnished to the City ABC Administrator.

Section 4.14 Dormancy.

(a) 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.

(b) 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 section (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.

(c) The provisions of section (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 FOR SALE AND DELIVERY

Section 5.1 Hours for Sale and Delivery.

(a) A licensee for distilled spirits, wine or malt beverages by the drink shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages on Monday through Thursday between the hours of 6:00 a.m. until 12:00 midnight. Further, a licensee for distilled spirits, wine or malt beverages by the drink shall be permitted to sell or dispense said beverages on Sunday from 1:00 p.m. until 9:00 p.m.

(b) The licensee shall not sell or dispense distilled spirits, wine and malt beverages by the drink for consumption on Friday and Saturday, except between the hours of 6:00 a.m. Friday until 2:00 a.m. Saturday, and 6:00 a.m. Saturday until 2:00 a.m. Sunday.

(c) A licensee licensed to sell distilled spirits, wine or malt beverages by the drink may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1;

provided that the appropriate licenses have been obtained from both the city and the state ABC Board.

(d) Retail package distilled spirits and wine sales, package malt beverage sales shall be permitted from 6:00 a.m. until midnight each day of the week, except that such package sales shall not be permitted during the hours of 12:00 midnight and 1:00 p.m. on Sunday, or between the hours of 9:00 p.m. on Sunday and 6:00 a.m. on Monday.

(e) The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any election day.

ARTICLE VI. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

Section 6.1 Gambling.

No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on licensed premises. Dice, slot machines, and/or any device of chance are prohibited and shall not be kept on such premises unless otherwise permitted by law.

Section 6.2 Radio Receiving Apparatus.

It shall be unlawful for any licensee licensed under this chapter 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 Simpson County or the Kentucky State Police as they are 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.

Section 6.3 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.

Section 6.4 Lavatory Facilities Required.

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

Section 6.5 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.

Section 6.6 Underage Sales.

The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age. The licensee shall check all IDs to ascertain that every person attempting to purchase or consume alcoholic beverages is at least 21 years of age.

Section 6.7 Sign Requirements.

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 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.*

Section 6.8 License to be Displayed.*

(a) 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 the traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(b) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking

alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

*Pursuant to KRS 243.895

Section 6.9 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 the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

Section 6.10 Habitual Congregating.

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

(b) 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.

(c) No persons shall congregate for the purposes, under the circumstances, or in the places proscribed in Section 8.1 and Section 8.2.

(d) It shall be a defense to any prosecution under Section 8.1 and Section 8.2 if such licensed vendor or property owner shall permit the division of police to 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 is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.

Section 6.11 Definitions.

As used in this section, the term:

(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.

Section 6.12 Employment Restrictions.

No licensee shall knowingly employ in connection with his or her 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 intoxicating liquors within the last two (2) years;

(c) Is under the age to 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;

(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 6.13 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 special or free drinks on any licensed premise in the city.

Section 6.14 Cause for Revocation.

Violation of this article shall subject the licensee to penalties provided in this chapter and shall be cause for revocation of license.

ARTICLE VII. MINORS

Section 7.1 Possession by Minors Prohibited; No Person Shall Aid Possession by Minors.

(a) Except as specifically authorized under KRS Chapters 241 through 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, 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. For purposes of this prohibition, "premises" specifically encompasses the entire lot upon which a licensed establishment is situated, including any drive-up window. The prohibition contained in this section (b) shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, or similar establishment.

(c) No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licensees, as set out in Section 6.6, 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 individual's possession, consumption or use of alcoholic beverages, or that the minor individual's possession of alcoholic beverages was exempted by KRS 244.087.

ARTICLE VIII. CONSUMPTION ON PREMISES PROHIBITED

Section 8.1 Consumption on Licensed Package Premises Prohibited.

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 said person or entity shall also have a drink license conferring the privilege of consumption on the premises or shall have a retail malt beverage license and a city malt beverage drink license, which permits on premises consumption. Any licensee who intends to permit on premises consumption shall, prior to permitting on premises consumption, notify the City ABC Administrator in writing of this decision. A licensee who does not permit on premises consumption shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited. Notwithstanding any other provision herein to the contrary, no malt beverage license shall be issued or be allowed to remain valid for any establishment that sells malt beverages by the drink only.

Section 8.2 Exceptions.

This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of KRS Chapter 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.

ARTICLE IX. MALT BEVERAGE KEG REGISTRATION

Section 9.1 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.

Section 9.2 Malt Beverage Keg Identification Tag.

All retail licenses (hereinafter referred to as “licensee”) operating within the City of Franklin 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:

- (a) The purchaser is of legal age to purchase, possess and use the malt beverage;
- (b) 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;
- (c) The purchaser will not remove, obliterate or allow to be removed or obliterated the identification tag;
- (d) The purchaser will state the property address where the keg will be consumed and physically located; and
- (e) 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.

Section 9.3 Keg Registration.

- (a) 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.
- (b) 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.

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

(d) The City ABC Administrator is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

(e) 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.

Section 9.4 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 Section 11.1(b). In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

ARTICLE X. ENFORCEMENT

Section 10.1 Enforcement.

City police officers and the City ABC Administrator are authorized to enforce this chapter for alleged violations.

ARTICLE XI. PENALTIES

Section 11.1 Penalties

(a) In addition to any criminal prosecution instituted in Simpson District Court against an alleged violator, the City ABC Administrator may assess the fines and penalties authorized in KRS 243.480, including the per diem assessments for ongoing violations. Should the fines or penalties assessed by the state change under KRS 243.480, then the fines or penalties under this article shall be adjusted accordingly to mirror the fines or penalties imposed by state law. Payment of all fines shall be made to the City ABC Administrator who shall transmit said payments to the City Finance Department to be deposited in the appropriate designated account.

(b) Any person, firm or corporation who violates any of the provisions of this chapter for which no other penalty is hereby provided, shall for the first offense be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or imprisoned in the county jail for not more than

six 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 imprisoned.

ARTICLE XII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

Section 12.1 Mandatory Responsible Beverage Service Training.

(a) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a city-approved responsible beverage service training program. For a responsible beverage service training program to be approved by the city, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxication. The city will not require enrollment in particular classes, but only that the training be obtained from a recognized program meeting the goals expressed in this chapter.

(b) All persons required to complete training under section (a) above shall complete that 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.

(c) 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 hereunder must at all times when alcoholic beverages are being served have at least one person currently certified in responsible beverage service training on duty. Further, each licensee shall file a copy of all employees' training documents with the licensee's quarterly sales license fee returns.

(d) All persons completing the training required by this section shall be re-certified in responsible beverage service training from a program approved by the city not less than once every three (3) years thereafter.

ARTICLE XIII. SIGNS AND ADVERTISING

Section 13.1 Signs and Advertising.

(a) All signage shall be in compliance with any and all other existing rules and regulations of the City of Franklin and the Franklin-Simpson Planning and Zoning Commission.

(b) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(c) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder and/or any other applicable provisions of the Kentucky Revised Statutes.

(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.

ARTICLE XIV. PATIO AND OUTDOOR SALES

Section 14.1 Patio and Outdoor Sales Regulations.

(a) Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.

(b) No licensee shall offer alcoholic beverages for sale in a patio or outdoor area of the licensee's premises except in a clearly defined patio or outdoor area that is enclosed by a fence or other screening, not less than four (4) feet in height. All outdoor areas and screening shall be subject to the approval of the City ABC Administrator. An exception to this restriction may be granted for seasonal sidewalk cafes, upon application to and authorization from the City ABC Administrator and approval of the City Commission. The permission to operate a sidewalk café shall be governed by the provisions of this article and shall be subject to the regulation of local zoning authorities, as well as code enforcement and public safety officers.

(c) No licensee shall offer patio or outdoor sales of alcoholic beverages unless the patio or outdoor area and fencing or screening area shall have been approved in advance by the City ABC Administrator.

(d) Unless exempted by the following provisions of this chapter and by permission of the City ABC Administrator, patio areas must comply with the screening requirements of this chapter. Sidewalk café seating areas must comply with this chapter and with local zoning chapter and other public safety requirements noted in this chapter or in other provisions of local ordinance, statute or regulation.

Section 14.2 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 sidewalk cafes that serve food

and alcoholic beverages as an adjunct to the primary and adjacent licenses premises. In the case of permitted sidewalk cafes, they shall be deemed part of the licensed premises.

(b) Any food establishment which operates a restaurant and is licensed under this chapter and the provisions of the state ABC code may upon application to the City ABC Administrator ask permission to expand 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.

(c) The City 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, as well as a lease from the City to use the sidewalk duly approved by the City Commission; and
4. Also finds that the issuance of the permit would not result in any significant adverse land use impacts.

Section 14.3 Conditions for Sidewalk Café Permit.

The issuance of a permit shall be subject to the following conditions and restrictions; provided, however, that the City 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 said Administrator to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing:

(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 or 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 and lease. 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 signs, 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.

(f) 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.

(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 and lease for a sidewalk café may not be assigned or transferred.

Section 14.4 Other Requirements Applicable to Sidewalk Cafes.

No sidewalk café permit shall be effective unless the licensee has filed with the City ABC 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 Manager or his or her designee. The city shall be named an additional insured in the policy providing such insurance, and such policy shall further provide that it may not be canceled except upon ten (10) days written notice (or more) filed with the City ABC Administrator.

ARTICLE XV. LOCATION OF PREMISES RESTRICTED; ENFORCEMENT

(a) Restricted to B-2, B-4 and B-5 Zones. No person or entity shall, or shall be licensed in the city to, sell, dispense, wholesale and/or retail alcoholic beverages requiring a retail package license from any premises or establishment located in any place or area other than within the boundaries and areas known as and established as General Business Districts (B-2), Highway Business Districts (B-4), or Interstate Interchange Business Districts (B-5), under the provisions of the Franklin-Simpson Planning and Zoning Regulations. The boundaries of those areas are shown on the zoning map on file in the Franklin-Simpson Planning and Zoning Office. Provided, further, that the retail sale of alcoholic beverages requiring a retail package license shall be a conditional use of the property, and shall require a conditional use permit from the Franklin-Simpson County Board of Adjustments. The requirements to obtain a conditional use permit are contained in the Franklin-Simpson

Planning and Zoning Regulations and/or can be obtained at the Franklin-Simpson Planning and Zoning Office.

(b) Private Clubs, Present Locations, Hotels, Motels, and Restaurants are Excepted. The foregoing provisions shall not apply to legitimate private clubs now in existence, and the present locations of any licensed places or establishments, nor shall it apply to hotels, motels and restaurants. However, this provision shall apply in the event any license of any person, firm or corporation for premises and establishments now located outside the area herein provided, other than the kinds of business and establishments herein excepted, shall hereinafter be revoked, surrendered or not renewed. No new license shall be issued for use at any location or premises not within the boundaries of the area herein established.

(c) Injunction. The provisions of this section may be enforced by injunction proceedings in any court of competent jurisdiction.

ARTICLE XVI. IMPLEMENTATION OF ORDINANCE PROVISIONS

From time to time, the Franklin City Commission may by resolution, ordinance or order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this chapter.

ARTICLE XVII. SEVERABILITY

If any portion of this ordinance is declared null and void, the remaining provisions will remain in full force and effect.

ARTICLE XVIII. EFFECTIVE DATE

Prohibition is lifted for the limited purpose hereinabove effective September 21, 2012. This Ordinance shall be in full force and effect from and after its adoption as provided by law.

BE IT FURTHER ORDAINED that the City Manager or Mayor of the City of Franklin and/or his designee, be and is hereby authorized and directed to take all steps necessary to perfect this ordinance.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions of this Ordinance.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed. This ordinance shall specifically repeal Ordinance No. 220.500-12-2004, Ordinance No. 220.500-12-2005, Ordinance No. 220.500-8-2007, and Ordinance No. 220.500-10-2009.

FIRST READING

SECOND READING

At a meeting of the City Commission of the City of Franklin, Kentucky, held on _____, on motion made by _____ and seconded by _____, the foregoing ordinance was adopted, after full discussion, by the following vote:

- _____ LARRY DIXON
- _____ JAMIE POWELL
- _____ MASON BARNES
- _____ HENRY STONE
- _____ RONNIE CLARK, MAYOR

APPROVED BY:

RONNIE CLARK, MAYOR
CITY OF FRANKLIN, KENTUCKY

ATTEST:

MANDY CASSADY, CITY CLERK
CITY OF FRANKLIN, KENTUCKY

Sept 2012

ORDINANCE NO. 220.500-12-2004
**'AN ORDINANCE RELATING TO ALCOHOLIC BEVERAGE CONTROL PURSUANT TO KRS
242.185(6)**

WHEREAS, KRS 242.185(6) provides for a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food; and,

WHEREAS, this provision also provides for a caterer's license so long as the above-required conditions are met; and,

WHEREAS, by duly qualified petition, the question was placed on the ballot on the November 2, 2004 election and was passed by a majority of the voters of the City of Franklin, Kentucky; and,

WHEREAS, Executive Order #2004-06 was entered in the Order Book of the County Judge Executive on November 16, 2004, containing the certification of the County Board of Election Commissioners of the results of said election, which is required by KRS 242.200; and,

WHEREAS, KRS Chapters 241-244 grant to cities the authority to promulgate legislation regulating alcoholic beverage sales within the corporate limits; and,

WHEREAS, the City Commission has determined that it is in the best interest of the citizens and residents of the City of Franklin, Kentucky, to enact this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FRANKLIN, KENTUCKY, as follows:

ARTICLE I -- IN GENERAL

Section 1.1 Purpose:

The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS 242.185(6) for any restaurant or dining facility which seats a minimum of one hundred (100) persons and which derives a minimum of seventy (70%) percent of its gross receipts from the sale of food. Further, all caterers that desire a license pursuant to this ordinance must comply with the uniform provisions of this ordinance and KRS 243.033. To realize this intent, the City shall implement this Ordinance in such a manner as to assure that:

(a) Restaurants and dining facilities licensed under this Ordinance shall seat a minimum of one hundred (100) persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. Said seating must comply with all fire and safety capacity ratings and regulations.

(b) The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty.

(c) Restaurants and dining facilities licensed under this Ordinance shall derive a minimum of seventy (70%) percent of their gross receipts from the sale of food as certified by periodic documentation as provided herein.

(d) Caterers shall comply with the provisions of KRS 243.033 and Article VI hereinbelow regarding caterers.

Section 1.2 Definitions:

The definitions of the words used throughout this ordinance, unless the context requires otherwise, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

Section 1.3 Scope:

(a) This Ordinance shall only apply to the sale of malt beverages, wine and distilled spirits on the premises of the licensee. Nothing in this Ordinance shall excuse or relieve the licensee, or the agent or any employee of any licensee thereof from the restrictions, requirements and penalties of any other Ordinance or Ordinances of the City or of any statutes of the Commonwealth of Kentucky relating to violations pertaining to alcoholic beverages.

(b) Adoption of State Alcoholic Beverage Control law -- The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

ARTICLE II – LICENSES

Section 2.1 Scope:

Under this Ordinance a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 242.185 (6).

ARTICLE III -- DUTIES OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

Section 3.1 List of Duties:

(a) The City Manager shall serve as the City Alcoholic Beverage Control Administrator (hereinafter referred to as "City ABC Administrator"), unless the City Manager shall appoint another person to fill the position of City ABC Administrator pursuant to KRS 241.170(2).

(b) The salary for said office, if any, together with the salaries of any other personnel assisting the City ABC Administrator, shall be fixed from time to time by the City Commission.

(c) The functions of the City ABC Administrator shall be the same with respect to the City licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as "ABC Board") with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City Commission.

(d) 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 ABC Board under KRS 241.100. (KRS 241.170).

(e) The City ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.

(f) Should the City ABC Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee, or agent of a licensee, or any stockholder, member, agent or employee of a licensed corporation or limited liability company, has a criminal record, he shall have the authority to require such person to appear in person at the Franklin Police Department for the purpose of having his or her fingerprints taken.

(g) The City ABC Administrator before entering upon his or her duties as such, shall take the oath as prescribed in Section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand (\$1,000.00) dollars. The cost of any necessary bond required under this section shall be borne by the City of Franklin.

(h) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the City ABC Administrator. Matters at issue shall be heard by the Board as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

ARTICLE IV -- APPLICATION/LICENSE

Section 4.10 Application:

(a) Any person, corporation, partnership, or other entity, except an applicant for the same license for the same premises, or an applicant for those other exempt licenses as are set forth in KRS 243.360(1) shall, before an application may be considered, advertise by publication under KRS 424.130(1)(b) the applicant's intention to apply for a license.

(b) The notice shall conform in all material respects to the following requirements:

(1) The notice shall state the name and address of the applicant if the applicant is an individual, the name and address of each partner and the name and address of the business if the applicant is a partnership, or if the applicant is a corporation, the names and addresses of each principal officer and director of the corporation, as well as the name and business address of the corporation itself, or the name and address of each member and the name and address of the business if the applicant is a limited liability company; and,

(2) The notice shall specifically state the location of the premises for which the license is sought and the type of license being requested; and,

(3) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license(s) by writing the Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601-8400, within thirty (30) days of the date of this legal publication."

(4) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

(b) All licenses granted under this Ordinance 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 ABC Board and the City of Franklin, as amended and supplemented from time to time.

(c) (1) 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 ABC Board and the City of Franklin including as follows:

(a) The name, age, Social Security number, address, residence and citizenship of each applicant;

(b) If the applicant is a partner, the name, age, Social Security number, address, residence, and citizenship of each partner and the name and address of the partnership;

(c) The name, age, Social Security number, address, residence, and citizenship of each person interested in the business for which the license is sought, together with the nature of that interest, and, if the applicant is a corporation, limited partnership company, or limited liability company, the name, age, Social Security number, address, and residence of each officer, director, member, partner, shareholder (including the percentage ownership) and managerial employee and the citizenship of each, and the state under the laws of which the corporate applicant is incorporated or organized. The City shall perform background checks on all of the aforementioned individuals except stockholders who own less than forty percent (40%) of the total interest in the corporation. However, the City reserves the right to perform background checks on all stockholders, regardless of his/her/its interest;

(d) The premises to be licensed, stating the street and number, if the premises has a street number, and otherwise such a description that will reasonably indicate the location of the premises. If the premises is leased, the applicant shall attach a copy of the lease;

(e) Date residence was established in Kentucky, if a resident of Kentucky. If Franklin resident indicate when residence was established;

(f) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this act;

(g) Extent of such ownership;

(h) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province;

(i) A statement that the applicant will in good faith abide by every state and local statute, regulation, and ordinance relating to the manufacture, sale, use of, and trafficking in alcoholic beverages.

(2) Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City ABC Administrator shall transmit the same to the City Finance Department for deposit into the appropriate designated account.

(d) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(e) All City licenses shall be in such form as may be prescribed by the City Commission and 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 name and address of the owner of the building in which the licensed premises are located;
- (6) The expiration date of the license;

(7) 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.

(f) All licenses approved by the City ABC Administrator and issued by the City of Franklin shall begin on May 1 of any year and shall expire on April 30.

(g) 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.

(h) Any licenses issued after May 1 of 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 that for a period of six months.

(i) In addition, any other penalties allowed by this Ordinance or any other statutory provision, a violation of this section shall authorize and require the revocation of the license and the City shall not be required to refund any portion of the license fee.

Section 4.11 Fees KRS 243.070:

(a) The annual City License fee for a limited restaurant license shall be \$800.00. The City, with approval of the City Commission, may increase this fee if allowed by the Kentucky Revised Statutes.

(b) The annual City License fee for a caterer's license is \$800.00. The City, with approval of the City Commission, may increase this fee if allowed by the Kentucky Revised Statutes.

(c) The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City Licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact the ABC Board Administrator has approved the applicant's state application.

Section 4.12 Refund of License Fees:

(a) Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth of Kentucky with reference to alcoholic beverages or other cause outside licensee's control then the City shall refund to it the proportionate part of the license fee for the period during which it 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 wrong doing by licensee or agent or employee of the licensee. The request for refund shall be submitted in writing to the ABC Administrator along with the reason(s) for the refund and the proof as set forth hereinabove.

Section 4.13 Lost or Destroyed Licenses:

(a) When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after he shall be satisfied as to the facts, provided, however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) Dollars for issuing said duplicate.

Section 4.14 Revocation or Suspension:

(a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or

regulation of the ABC Board or of the Revenue Cabinet 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 of any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his sound discretion deems sufficient.

(b) 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.

(c) Any license must be revoked or suspended for the following causes:

- (1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.
- (2) Making any false, material statements in an application for a license or supplemental license.
- (3) Violation of the provisions of KRS 243.670.
- (4) If, within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any of the clerks, servants, agents or employees of the licensee shall have twice been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or if the licensee or any of his clerk, servants, agents, or employees are convicted of any felony.
- (5) Failure or default of a licensee to pay an excise tax or any part of the tax or penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the Revenue Cabinet made in pursuance thereof.
- (6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.
- (7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or 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 such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility. This section shall not apply to any activity authorized by the Kentucky Revised Statutes, contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter 154A.

(8) Conviction of the licensee, his agents, servants, or employees for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to KRS 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances; or

(c) Knowingly receiving stolen property upon the licensed premises.

Section 4.15 Notice to Licensee; Surrender of License; Hearing:

(a) Within three (3) days after any order of revocation 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 license to the City ABC Administrator. If the revoked 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 officers to take physical possession of the license and return it to the City ABC Administrator.

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

(c) Appeal from the decision of the City ABC Administrator shall be to the ABC Board pursuant to the applicable provisions of the Kentucky Revised Statutes.

(d) If a license is revoked or suspended by an order of the City ABC Administrator, the licensee shall at once suspend all operations authorized under his license.

Section 4.16 Transfer or Assignment:

(a) For purposes of this section, "transfer" shall have the same meaning as is defined in KRS 243.630(1).

(b) No license issued under this Ordinance 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. For situations involving changes in ownership of greater than ten percent (10%) and/or changes in member, partners, officers, shareholders or directors, see Section 4.20 hereinbelow.

(c) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the department, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the City ABC Administrator. The City ABC Administrator shall grant approval if the person acquiring the interest meets the qualifications of a new applicant.

(d) Any acquisition of interest in a license without prior authorization as set forth herein shall be void.

(e) All applications for approval of a transfer shall be made in writing to the City ABC Administrator. Said applications shall be made under oath or affirmation, shall be signed by both the transferor and transferee, and shall contain such other information as the City ABC Administrator may proscribe.

(f) A licensee shall not transfer his or her license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or regulation which may result in the suspension or revocation of the license are pending.

(g) A licensee shall not transfer his or her license or any interest in the license if the licensee owes the City of Franklin or the Commonwealth of Kentucky for any outstanding taxes or fees as defined in Section 4.14(c)(5) of this ordinance or as required by any ordinance of the City of Franklin. A transfer shall not take place until the City ABC Administrator receives documentation from any applicable governmental agency that all taxes have been paid and/or that no taxes, fees or penalties are due and owing. This section shall not prohibit a transfer of a license or an interest in a license by a trustee in bankruptcy if all other requirements of this section are met.

Section 4.17 Refusal of License:

(a) A City license shall be refused:

(1) 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 other alcoholic beverage control statute, regulation, and/or city ordinance or regulation regarding alcohol beverage licensing, sales or the administration thereof.

(2) If the applicant has done any act for which a revocation of license would be authorized; or

(3) If the applicant has made any false material statement in his application.

(b) A license (new issuance, transfer or renewal) may be refused by the City ABC Administrator for any reason which he, in the exercise of his sound discretion, may deem sufficient.

Section 4.18 Review of License:

(a) Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink, regardless of whether said license is a caterer's license or a limited restaurant license, pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) 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. In the event the seventy percent (70%) food requirement is not met in any particular quarter, the City ABC Administrator shall have the 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 seventy percent (70%) minimum food requirement has been met.

Section 4.19 Regulatory License Fee:

(a) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. The City Commission shall adopt at the beginning of each budget period for each fiscal year such percentage rates as shall be reasonably estimated to insure full reimbursement to the City for the cost of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed and such regulatory fee shall be applied annually from May 1 to April 30. Said license fee shall be eight (8%) percent of gross sales of alcoholic beverages as set by the City Commission for the fiscal year ending April 30, 2004 and shall continue thereafter until amended or repealed.

(b) Payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall accompany the tax returns approved for such use by the City Commission. These returns and payments are due no later than by the end of the month immediately following each calendar quarter at which time one-fourth (1/4) of the total annual fees shall be deducted as a credit.

(c) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension revocation.

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

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

Section 4.20 Change of Information:

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

(b) As used herein, the word "change" is construed to include any change in directors or officers of the corporation, or change in ownership of stock whereby any person secures ten percent (10%) of the outstanding stock. Transfer of more than forty percent (40%) of the total stock shall require a new license.

(c) The following information will be required concerning any new partner, member, director, officer, or person securing any interest in an alcoholic beverage license:

(1) The name, age, Social Security number, address, residence and citizenship of each new partner, member, director, officer or person securing any interest in an alcoholic beverage license

(2) If the applicant is a partner, the name and address of the partnership;

(3) The name, age, Social Security number, address, residence, and citizenship of each person interested in the business for which the license is sought, together with the nature of that interest, and, if the applicant is a corporation, limited partnership company, or limited liability company, the name, age, Social Security number, address, and residence of each officer, director, member, partner, and managerial employee and the citizenship of each, and the state under the laws of which the corporate applicant is incorporated or organized. The City may require the names of all of the stockholders and the percentage of stock held by each;

(4) The street and number of the licensed premises to be licensed, if the premises has a street number, and otherwise such a description that will reasonably indicate the location of the premises. In addition, if the premises is leased, the applicant shall attach a copy of the lease;

(5) Date residence was established in Kentucky, if new partner, member, director, officer or person securing an interest in an alcoholic beverage license is a resident of Kentucky. If Franklin resident indicate when residence was established;

(6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this act;

(7) Extent of his or her stock ownership;

(8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province;

(9) A statement that the applicant will in good faith abide by every state and local statute, regulation, and ordinance relating to the manufacture, sale, use of, and trafficking in alcoholic beverages; and,

(10) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(d) This information shall be filed with the City ABC Administrator as an amendment of the application pursuant to which the license was granted.

Section 4.21 Dormancy:

(a) 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 any other businesses, may have his or her business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.

(b) Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the City ABC Administrator.

(c) Except that the provisions of subsection (a) 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, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. 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 prior to the expiration of the ninety (90) days of inactivity, for any of the 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 thereunder 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 sound discretion.

(d) All renewal licenses must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the licenses 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 prior due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; 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 be payable until application is made for the transfer of said license to a new location.

Section 4.22 Approval of Premises:

The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the city building inspector, and any and all other inspections required by the Kentucky Building Code.

Section 4.23 Delinquent Taxes or Fees:

No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of the issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

Section 4.24 Books, Records and Reports:

(a) 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 reasonable 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 review.

(b) For the purpose of assisting the City ABC Administrator in enforcement of this Ordinance, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the City ABC Administrator.

ARTICLE V -- HOURS FOR SALE AND DELIVERY; RESTRICTIONS

(a) Upon the licensee being granted a license for the retail sales of distilled spirits, wine and malt beverages by the drink for consumption on its premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.

(b) The licensee shall not sell or dispense distilled spirits, malt beverages and wine on Sunday except between the hours of 1:00 p.m. and 12:00 a.m.

(c) The licensee shall provide a separate locked department in which all stocks of distilled spirits, wine and malt beverages are kept during the hours when sales are prohibited. KRS 244.290.

(d) All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

(e) The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular or primary election day. The licensee shall remain closed during the hours the polls are open on any regular or primary election day unless it can provide a separate locked department in which all stock of distilled spirits, wine and malt beverages are kept during the hours the polls are open. KRS 244.290.

ARTICLE VI – CATERER’S LICENSES

Section 6.1 Caterer’s License:

(a) A caterer’s license may be issued as a supplementary license to a caterer that holds a limited restaurant license.

- (b) The caterer's license may be issued as a primary license to a caterer in any wet territory for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall be issued to a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.
- (c) The caterer's license shall only authorize the caterer to carry on such actions and perform such functions as are set out in KRS 243.033 specifically including, but not limited to the provisions relating to the percentages applicable to the sales of food versus gross receipts.
- (d) All provisions of this ordinance regarding applications, fees, maintenance of records, and filings including, but not limited to all quarterly and annual filings, that apply to a limited restaurant licensees shall also apply to caterer licensees, except that the annual license fees for a caterer and limited restaurant licensee are set forth individually as set forth in KRS 243.070.

ARTICLE VII -- CONDITIONS, PROHIBITIONS AND RESTRICTIONS

Section 7.1 Conditions, Prohibitions and Restrictions:

(a) 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, or any device of chance is prohibited and shall not be kept on such premises.

(b) 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 Simpson County 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 shall have the authority to confiscate any and all such radio receiving apparatus.

(c) The licensee shall be responsible for maintaining security on his 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) It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind, 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 alcoholic beverages.

(e) 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 permit any drunk or intoxicated person to remain on the licensed premises.

(f) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(g) The licensee shall display at all times in a prominent place a sign at least 8" x 11" in 30 point or larger type 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.

(h) The licensee, before commencing any business for which a license has been issued, shall post and display the license 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 licensee, or knowingly deface, destroy or alter the license in any respect.

(i) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895.

(j) Except in conformity with regulations of the ABC Board, Planning and Zoning Regulations, and/or City ordinances, no licensee shall advertise or cause or permit to be advertised in any manner any product which he/she/it is licensed to manufacture or sell. Provided, however, this section shall not prohibit advertising in newspapers, magazines, or periodicals having a general circulation, promotional advertising on radio or television limited to no more than the name of the licensee and the products that the licensee is licensed to manufacture or sell, and/or promotional advertising containing names of establishments or products displayed on uniforms or equipment of sporting teams.

(k) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(l) No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

- a. Has been convicted of any felony within the last two (2) years;
- b. Has been convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors, within the last two (2) years;
- c. Is under the age of twenty (20) years who will be serving alcoholic beverages.
- d. Within two (2) years prior to the date of his or her employment, has had any City license under this Ordinance revoked for cause.

(2) Violation of this subsection shall subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license.

(m) No person shall be in possession of a loaded, as defined in KRS 237.060, firearm while actually within the room where alcoholic beverages are being sold by the drink of a building on premises licensed to sell distilled spirits and wine at retail by the drink for consumption on the licensed premises pursuant to KRS Chapter 243. Provided, however, that this section shall not apply to the owner, manager, or employee of the licensed premises, law enforcement officers, or special local peace officers commissioned pursuant to KRS 61.360.

(n) The licensee shall only distribute alcoholic beverages during times in which the licensee's kitchen and food service staff are on duty.

ARTICLE VIII -- ENFORCEMENT

Section 8.1 Enforcement:

The City ABC Administrator and his or her designees are authorized to enforce this Ordinance for alleged violations.

Section 8.2 Penalties:

The following penalties shall be in addition to any criminal prosecution instituted in Simpson District Court against an alleged violator and fines hereunder shall be payable to the City ABC Administrator. The City ABC Administrator may assess a fine of not more than five hundred dollars (\$500.00) per violation. This payment of said fine shall be transmitted to the City Finance Department to be deposited in the appropriate designated account. Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned in the county jail for not more than six 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, joint stock company, limited liability company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

ARTICLE IX -- SEVERABILITY

If any portion of this Ordinance is declared null and void, the remaining provisions will remain in full force and effect.

ARTICLE X -- EFFECTIVE DATE

Prohibition is lifted for the limited purpose hereinabove effective January 15, 2005. BE IT FURTHER ORDAINED that the City Manager or Mayor of the City of Franklin and/or his designee, be and he is hereby authorized and directed to take all steps necessary to perfect this Ordinance.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions of Ordinance.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

12-20-04
1-10-05

FIRST READING

SECOND READING

At a meeting of the City Commission of the City of Franklin, Kentucky, held on 1-10-05, on motion made by BROWN and seconded by STEWART, the foregoing ordinance was adopted, after full discussion, by the following vote:

<u>YES</u>	HERBERT WILLIAMS
<u>NO</u>	BILL AUSTIN
<u>YES</u>	WENDELL STEWART
<u>NO</u>	HENRY STONE

yes

JIM BROWN, MAYOR

APPROVED BY:

JIM BROWN, MAYOR

ATTEST:

KATHY STRADTNER, CITY CLERK
CITY OF FRANKLIN, KENTUCKY