

CITY OF LA GRANGE, KENTUCKY

**ORDINANCE 14, SERIES 2012
AN ORDINANCE AMENDING AN ORDINANCE RELATING TO THE
REGULATION OF ALCOHOLIC BEVERAGES IN THE
CITY OF LA GRANGE**

WHEREAS, KRS Chapter 242 gives the Fourth-Class city of La Grange the ability to regulate the sale of alcoholic beverages and the city desires to exercise that authority,

WHEREAS, the voters of the city of La Grange have, through special election, decided to permit the sale of alcoholic beverages in La Grange, Kentucky,

WHEREAS, Ordinance 11, Series 2012 contains terms that the city council wants to be changed, it is necessary to amend portions of Section 1, part (7); part 10 subsections (B) and (C); and part 12 subsection (B) of the ordinance,

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY OF LA GRANGE, KENTUCKY, THAT:

Section 1:

(7) ISSUANCE OF LICENSE; RECEIPT OF FEES

All licenses permitted under Kentucky law for a city with a population of the fourth class shall be allowed and all licenses granted under this chapter shall be approved and issued by the City of La Grange ABC Administrator. All license fees from licenses issued under this ordinance shall be collected by the City of La Grange ABC Administrator. ~~There shall be no reimbursement of ABC fees.~~

(10) LIQUOR; HOURS OF SALE AND DISTRIBUTION

(B) Alcohol may be sold or dispensed on Sundays, between the hours of Noon and 11:00 p.m., ~~as long as the licensee holds the current, corresponding special hours license(s).~~

(C) The licensee shall provide a separate locked department or covered, making it visually inaccessible in which all stocks of distilled spirits, and wine and malt beverages are kept during these hours when sales are prohibited. See KRS 244.290.

(12) DISPLAY OF PRINTED WARNING; ADVERTISING, AND OTHER SIGNAGE

(B) Signage which refers directly or indirectly to alcoholic beverages will be limited to one sign not more than two square feet that must be displayed from the inside of the window ~~or interior of the business~~. No additional signs, banners, posters or other type of ~~displaying~~ advertising which refers either directly or indirectly to alcoholic beverages shall be ~~displayed on,~~ ~~nor shall it be~~ visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises ~~business cards not larger than three inches by two inches (3"X2") in~~ ~~size,~~ setting forth the price at which he or she offers alcoholic beverages ~~for sale.~~

Section 2: Effective date

This ordinance shall take effect upon its reading, adoption and publication according to law.

Adopted this day 7th of January, 2013.

Introduction and First Reading: December 3, 2012

Second Reading and Passage:

January 7, 2013

William Lammlein, Mayor

ATTEST:

To be a true Ordinance enacted by the City Council of the City of La Grange, Kentucky on this 7th day of January, 2013.

Clerk, City of La Grange, Kentucky

VOTE:

FOR:	<u>7</u>
AGAINST:	<u>0</u>
ABSTAINED:	<u>0</u>
PRESENT:	<u>7</u>

CITY OF LA GRANGE, KENTUCKY

ORDINANCE 11, SERIES 2012

AN ORDINANCE RELATING TO THE REGULATION OF ALCOHOLIC BEVERAGES IN THE CITY OF LA GRANGE

WHEREAS, KRS Chapter 242 gives the Fourth-Class city of La Grange the ability to regulate the sale of alcoholic beverages and the city desires to exercise that authority,

WHEREAS, the voters of the city of La Grange have, through special election, decided to permit the sale of alcoholic beverages in La Grange, Kentucky,

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY OF LA GRANGE, KENTUCKY, THAT:

Section 1:

Chapter 117 of the Codified Ordinances is hereby repealed and replaced in its entirety as follows:

(1) ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW

(A) The provisions of the Alcoholic Beverage Control Laws and Administrative Regulations of the Commonwealth of Kentucky (KRS Chapters 241, 243, and 244), and all amendments and supplements thereto, are adopted in full, as far as applicable, as a portion of this ordinance except as otherwise lawfully provided herein. The City of La Grange Alcoholic Beverage Control (ABC) Administrator shall administer all Alcoholic Beverage Control Ordinances and regulations of the city and all statutes of the Commonwealth of Kentucky relating thereto and the regulations of the Kentucky Alcoholic Beverage Control Board. The definitions of the words used throughout this ordinance, unless the context requires otherwise, shall have the same meaning as those set out in Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

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(B) City of La Grange Alcoholic Beverage Control Administrator

DUTIES.

(A) The duties of the City Alcoholic Beverage Control Administrator (hereinafter referred to as the City of La Grange ABC Administrator) are hereby assigned to the Code Enforcement Officer of the City of La Grange.

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

(C) The functions of the City of La Grange ABC Administrator shall be the same with respect to city licenses and regulations as the function of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as the ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City of La Grange 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 of La Grange ABC Administrator shall become effective until it has first been appropriately approved by the City Council.

(D) No person shall be a City of La Grange ABC Administrator, an investigator or an employee of the City under the supervision of the City of La Grange ABC Administrator, who would be disqualified to be a member of the ABC Board under KRS 241.100.

(E) The City of La Grange ABC Administrator shall have all authority as authorized under KRS Chapters 241 through 244.

(F) Should the City of La Grange 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, has a criminal record, he shall have the authority to require such person to appear in person at the La Grange Police Department for the purpose of having his or her fingerprints taken.

(G) The City of La Grange ABC Administrator shall, before entering upon his or her duties as such, take the oath as prescribed in Section 228 of the

Constitution.

(H) Appeals from the orders of the City of La Grange 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 of La Grange ABC Administrator. Matters at issue shall be heard by the ABC Board as upon an original proceeding. Appeals from the orders of the City of La Grange ABC Administrator shall be governed by KRS Chapter 13B.

(2) PUBLISHED NOTICE OF APPLICATION

The City of La Grange ABC Administrator shall not approve any application for an original license to sell alcoholic beverages until the applicant has caused to be published a concise advertisement in accordance with the provisions of KRS 243.360.

(3) DELINQUENT TAXES; LICENSE WITHHELD

No license to sell alcoholic beverages shall be granted to any person who is delinquent in the payment of any taxes due to the City of La Grange at the time of issuing the license. Nor shall any license be granted to sell on any premises or property, owned and occupied by the licensee, on which there are any delinquent taxes or liens due to the City of La Grange. Where the property or premises on which a license to sell is sought, is rented or occupied by the applicant for a license but is owned by another, no license shall be granted if the taxes or liens of the City of La Grange due on the property or premises have not been paid. In such cases, the City of La Grange ABC Administrator may not issue a license to sell alcohol until he has received from the applicant a written statement from the City of La Grange which indicates that the applicant for the license and the owner of the property or premises on which the license is sought have paid in full all unpaid and delinquent taxes or liens referred to above which were owed to the City of La Grange.

(4) FORFEITURES

If any license issued under this chapter is revoked or cancelled for any reason by the City of La Grange ABC Administrator, the licensee shall forfeit any and all claims, which the licensee might otherwise have had to any portion of the

license fee paid by the licensee on the issuing of the license.

(5) COMPLIANCE WITH OTHER ORDINANCES AND REGULATIONS

No license shall be issued or renewed to any person for selling at retail or wholesale any alcoholic beverages at any premises or location where such business or associated activities are prohibited under Kentucky law, or are in violation or conflict with any regulation, including but not limited to signs, fire prevention and/or the zoning code and regulations of the City of La Grange and any ordinance supplementary or amendatory to it, and any license issued in violation of this section shall be void. However, any person who held a city ABC license for the sale of alcohol, and actually carried on thereunder this business (during or within the last month of the preceding license period) shall be granted a similar license by the City of La Grange ABC Administrator for the same business at the same premises or location, until its prior stated expiration date, at no additional cost.

(6) CONDITIONS GOVERNING LICENSES

All licenses granted under this chapter shall be granted subject to the following conditions, and all other conditions of other ordinances and regulations of the City of La Grange applicable thereto.

- (A) Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous, or indecent conduct shall be allowed at any time on any licensed premises and no nuisance suffered, permitted or maintained thereon.
- (A) It shall be unlawful for any licensee under this chapter to sell, keep or permit to be sold, or kept on the licensed premises any controlled substances as defined in KRS Chapter 218A, except at a licensed pharmacy. In addition to other penalties set out in this chapter for the violation of this section the City of La Grange ABC Administrator shall also have the authority to revoke the license issued to the premises.
- (B) It shall be unlawful for any licensee, or any employee of any licensee, to permit or allow acts of prostitution, gambling or the possession of any gambling device on the licensed premises, unless the gambling

activity is licensed by the Kentucky Lottery, the Kentucky Racing Commission for pari-mutuel betting, or the Office of Charitable Gaming.

- (C) It shall be unlawful for any licensee, or employee of any licensee, to allow the premises to become overcrowded or violate any ordinance or regulation of the Fire Prevention or Fire Marshall offices.

(7) ISSUANCE OF LICENSE; RECEIPT OF FEES

All licenses permitted under Kentucky law for a city with a population of the fourth class shall be allowed and all licenses granted under this chapter shall be approved and issued by the City of La Grange ABC Administrator. All license fees from licenses issued under this ordinance shall be collected by the City of La Grange ABC Administrator. There shall be no reimbursement of ABC fees.

All licenses approved by the City of La Grange ABC Administrator and issued by the city shall begin on July 1 of any year and shall expire on June 30 of the following year.

All fees that are imposed by KRS 243.070 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of La Grange ABC Administrator and the fees shall be paid when application for a license is made.

FEES

(1) Distilled spirit and wine licenses:

(a) Wholesaler's distilled spirits and wine license, per annum \$3,000.00

(b) Distilled spirits and wine retail package license, per annum..... \$600.00

(c) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:

New applicants
\$600.00

Applicants for renewal
\$400.00

- (d) Distilled spirits and wine special temporary liquor license, per event.... \$100.00
- (e) Special temporary wine license, per event \$50.00
- (f) Distilled spirits and wine special temporary auction license, per event.. \$200.00
- (g) Special private club license, per annum \$300.00
- (h) Nonresident special agent or solicitor's license, per annum \$40.00
- (i) Restaurant wine license, per annum:
 - New applicants \$600.00
 - Applicants for renewal \$400.00
- (j) Extended hours supplemental license, per annum \$200.00

(2) Caterer's license:

Caterers may be issued a caterer's license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer's license as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer's license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer's license) must also obtain a City business license. The annual City fee for a caterer's supplemental license for malt beverages by the drink shall be \$150.00 and for renewal, the fee shall be \$75.00. The annual City fee for a caterer's supplemental license for distilled spirits and wine by the drink shall be \$200.00 and for renewal, the fee shall be \$100.00.

(3) Malt beverage licenses:

- (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) Retail malt beverage license, per annum \$200.00
- (e) Special temporary retail malt beverage license, per event \$25.00
- (f) Malt beverage brew-on-premises license, per annum \$100.00

Other:

- (a) The fee for a sidewalk café permit shall be \$100.00 per annum.
- (b) Distilled spirits and wine special Sunday retail drink license shall be \$1.00 per annum.
- (c) Malt beverage special Sunday retail drink license shall be \$1.00 per annum.

* Any licenses issued after January 1 of any year shall be assessed a fee equal to one-half (1/2) of the annual fee for the remainder of the license period.

In addition to the above-mentioned fees, a regulatory license fee on gross receipts shall be imposed as follows:

(a) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. The regulatory license fee shall be five percent (5%) of gross sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and wine, the regulatory license fee shall be five percent (5%) of gross sales. The regulatory license fee shall be five percent (5%) on gross retail sales of package malt beverages. These fees shall be paid quarterly. For year 2013-14 and thereafter, the City 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 last fixed until such time as the City shall adjust the fee.

(b) Payment of such regulatory fee shall be remitted to the City of La Grange 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 license fee shall accompany the tax return approved for such use by the City. The return and payment are due no later than by the end of the month immediately following each calendar quarter (July 1 to August 31; September 1 to December 31; January

1 to March 31; April 1 to June 30).

(c) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects the licensee to suspension or revocation. A civil action may be filed by the City to collect the unpaid fee, penalties, and interest. If such a civil action is filed, the licensee shall be responsible for the expense of attorney fees and the costs associated with prosecuting the civil action.

(d) Penalty for failure to file a return and pay quarterly remittance by the due date shall be 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 shall apply to any late payments.

(8) REVOCATION OR SUSPENSION OF LICENSE

(A) A violation of any of the provisions of this chapter, or any amendment thereof, by a duly authorized agent or employee of a licensee shall constitute a violation by the licensee. It shall be the duty of the City of La Grange ABC Administrator to make a written report of any violation of this chapter or any amendment thereof, or of any rules or regulations of the City of La Grange ABC Administrator, observed by any member of the Police Department of the City of La Grange. Members of the Police Department of the City of La Grange shall report any observed violation of this chapter or any amendment thereof, or of any rules or regulations of the City of La Grange ABC Administrator, to the City of La Grange ABC Administrator without undue delay. Whenever any licensee shall violate any provision of this chapter or any ordinance relating to the subject of alcoholic beverage control or any of the rules or regulations of the City of La Grange ABC Administrator, or any of the provisions of the Alcoholic Beverage Control Laws of the Commonwealth of Kentucky, or any amendments or supplements thereto, or any of the rules and regulations adopted by the Kentucky State Alcoholic Beverage Control Board, or any acts of Congress, or rule or regulation of any federal board, agency or commission relative to the regulation and

taxation of alcoholic beverages, proceedings for the revocation of the license shall be instituted in the manner and under the procedure established by the Kentucky State Alcoholic Beverage Control Law.

- (B) For a violation of any section of this chapter or any amendment thereof or of any rule or regulation of the City of La Grange ABC Administrator, or of any rule or regulation of the State Alcoholic Beverage Control Board, or any acts of Congress or rule or regulation of any federal board, agency or commission relative to the regulation and taxation of alcoholic beverages, or on conviction by a court of competent jurisdiction for any such violation, the City of La Grange ABC Administrator is authorized and empowered to order the revocation or suspension of any license issued under this chapter.

(9) TRANSFER OF LICENSE OR BUSINESS

No license issued under this chapter shall be transferred or assigned by the holder, except as provided in the Alcoholic Beverage Control Laws of the Commonwealth of Kentucky, KRS 243.630 and per approval of the City of La Grange ABC Administrator.

(10) LIQUOR; HOURS OF SALE AND DISTRIBUTION

(A) The licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink Monday through Saturday between the hours of 6:00 a.m. and midnight.

(B) Alcohol may be sold or dispensed on Sundays, between the hours of Noon and 11:00 p.m., as long as the licensee holds the current, corresponding special hours license(s).

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

(D) All delivery of alcoholic beverages in the city shall be made during normal business hours, Monday through Saturday.

(E) The licensee may sell and dispense distilled spirits and wine on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs, provided that the appropriate licenses

have been obtained from both the city and the state ABC Board (including but not limited to an extended hours license). If New Year's Eve falls on a Sunday, alcoholic beverages may be sold and dispensed commencing at Noon; if New Year's Day falls on a Sunday, then distilled spirits and wine may be sold and dispensed until 2:00 a.m. on January 1; provided, however, that in either instance, the appropriate licenses for Sunday sales and for extended hours sales has been obtained from both the city and the state ABC Board.

(F) 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.

(G) The distribution and sales by wholesale and delivery of any alcoholic beverages may occur only between the hours of 6:00 a.m. and 12:00 midnight, Monday through Saturday. No person shall distribute or sell by wholesale any such beverages at any time on Sunday.

(11) MINORS; PROHIBITIONS GOVERNING

The provisions of KRS Chapter 244 and Title 804 KAR involving prohibitions governing minors shall apply to licensees and licensed premises within the jurisdiction of the City of La Grange.

(12) DISPLAY OF PRINTED WARNING; ADVERTISING, AND OTHER SIGNAGE

(A) All signage shall be in compliance with any and all other existing rules and regulations of the City of La Grange and the Oldham County Planning and Zoning Commission.

(B) Signage which refers directly or indirectly to alcoholic beverages will be limited to one sign not more than two square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from

the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises business cards not larger than three inches by two inches (3" X 2") in size, setting forth the price at which he or she offers alcoholic beverages for sale.

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

(D) It shall be unlawful for a licensee to distribute or cause to be distributed any handbills, circulars, or cards as a medium of advertising alcoholic beverages.

(E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

(F) The provisions of KRS 244.083 requiring the display of printed warnings shall apply to licensees and licensed premises within the jurisdiction of the City of La Grange.

(13) TREATING PROHIBITED; SAMPLING PERMITTED

The provisions of KRS 244.050 shall apply to licensees and licensed premises within the jurisdiction of the City of La Grange.

(14) PREMISES; APPROVAL OF BY HEALTH DEPARTMENT AND FIRE PREVENTION

(A) Upon the initial application for an alcoholic beverage license, the City of La Grange ABC Administrator shall not grant the license under this chapter to any applicant until the applicant and the applicant's place of business have been approved by the County Board of Health and the La Grange Fire and Rescue Department. Upon renewal of an alcoholic beverage license, the requirement of approval by the Board of Health and Fire and Rescue Department before issuance will be waived if the applicant's business has been approved by the Board of Health and Fire and Rescue Department during the prior licensing period.

(B) PATIO AND OUTDOOR SALES

(1) 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 ABC City Administrator. 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 ABC Administrator.

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

(2) Exception to screening requirement for outdoor sales and service of alcoholic beverages, specifically, permitted sidewalk cafes in the City's downtown business area:

(a) Licensees in the downtown business district/area may request an exception from the outdoor screening of patio provision in order to permit seasonal sidewalk cafes that serve food and alcoholic beverages as an adjunct to the primary and adjacent licensed 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 Ordinance and the provisions of the state ABC code, may, upon application to the City of La Grange 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.

(3) Conditions for sidewalk café permit:

The issuance of a permit shall be subject to the following conditions and restrictions:

(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. Tables, chairs, and other portable appurtenances shall be confined to the area named or shown on the approved Permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

(c) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times. Further, the City may require the licensee to enter into an agreement to use the public sidewalk in exchange for monetary consideration.

(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 passers by 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) At no time shall any music originating from any part of the premises create a nuisance;

(g) 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;

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

(4) Other requirements applicable to sidewalk cafes.

No sidewalk café permit shall be effective unless the licensee has filed with the 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. The insurance shall be in an amount of coverage that is a minimum of \$500,000 per person for bodily injury, and a minimum of \$1 million per occurrence for property damage. The city shall be named an additional insured in the policy required. Such insurance policy shall further provide expressly that it may not be canceled except upon ten (10) day's written notice filed with the ABC Administrator and the City Attorney.

(C) SEATING

Only permanent seating (excluding bar-type stools, patio seating or temporary chairs available as needed) satisfies the seating thresholds that are set by Kentucky law.

(15) BOOKS AND RECORDS

The provisions of KRS 244.150 and 804 KAR 4:100 requiring the retention of books and records shall apply to licensees and licensed premises within the jurisdiction of the City of La Grange.

(16) SPIRITS OUTSIDE LOCKED DEPARTMENT; DISCOVERY OF

The provisions of KRS Chapter 244 and KAR Title 804, Chapter 7, pertaining to the discovery of spirits outside a locked department shall apply to licensees and licensed premises within the jurisdiction of the City of La Grange.

(17) OPERATION WITHOUT A LICENSE

The provisions of KRS 243.020 pertaining to licensing shall apply to licensees and licensed premises within the jurisdiction of the City of La Grange.

(18) LICENSEE TO NOTIFY EMPLOYEE THAT SALES OF ALCOHOL TO MINORS PROHIBITED; ACKNOWLEDGMENT

- (A) Every licensee selling alcoholic beverages by retail sales shall notify each individual employed in retail sales that the sale of alcoholic beverages to any person under the age of 21 years is prohibited.
- (B) A notice to employees shall be provided before the employee commences work as a retail sales clerk. The employee shall signify receipt of the notice required by this section by signing a form that states as follows: I understand that under the laws of the Commonwealth of Kentucky it is illegal to sell alcoholic beverages to persons under the age of 21 years.
- (C) The licensee shall maintain the signed acknowledgment required in subsection (B) in a place and manner so as to be easily accessible to any Police Officer of the City of La Grange or the City of La Grange ABC Administrator or his or her employees conducting an inspection of the retail outlet for purposes of monitoring compliance in limiting the sale or distribution of alcoholic beverages to persons under the age of 21 years.

(19) LICENSEE TO NOTIFY EMPLOYEE THAT PROOF OF AGE REQUIRED

- (A) Every licensee selling alcoholic beverages by retail sales shall notify each employee employed in retail sales that proof of ages is required from a prospective buyer if it is reasonable to believe that the prospective buyer is under the age of 21 years.
- (B) The following unaltered written instruments are the only acceptable types of identification:
 - (1) An unexpired driver's license issued by any state, provided such license contains a picture of the person;
 - (2) An official identification card issued by any state, provided such identification includes a picture of the person;
 - (3) A United States Armed Forces identification card, provided such identification includes a picture of the person;
 - (4) An unexpired passport issued by a government and which contains a picture of the person and date of birth.
- (C) Every licensee selling alcoholic beverages by retail sales shall require all employees who will sell alcoholic beverages to a buyer to complete STAR (Server Training in Alcoholic Regulations). All persons who are required to complete the STAR training shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement. 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 years thereafter. The licensee shall be responsible for compliance with the employee STAR training requirements and shall maintain for inspection by the City of La Grange ABC Administrator a record or file on each employee that shall contain the pertinent training information.

(20) CONDITIONS, PROHIBITIONS, RESTRICTIONS AND ENFORCEMENT

- (A) 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 Oldham County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the City of La Grange ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.
- (B) 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 premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.
- (C) It shall be unlawful for the licensee under this chapter 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.
- (D) 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.

(E) 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.***

(F) (1) 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.

(2) 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.

(G) (1) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven inches by fourteen inches (11" x 14") in size, with letters at least one inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(2) A person who violates the requirement of Part (G)(1), supra, shall be subject to a fine of not less than \$10 nor more than \$50. See KRS 243.895.

(H) Any off-premises signage advertising the sale of alcoholic beverages is prohibited.

(I) 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. Retail sales of liquor and wine may be sold for cash, check, gift card, or nationally recognized bank credit card. A licensee, his employees, servants, or agents may not extend personal credit to the public. Retail sales of beer is not included in this restriction. See KRS 244.300.

(J) (1) 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 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 years;
- (c) Is under the age of 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 years prior to the date of his or her employment has had any city license under this chapter revoked for cause.

Violations of this division shall subject the licensee, the employer, and the employee to penalties provided in this chapter and shall be cause for revocation of license.

(K) ENFORCEMENT

- (1) City police officers and the City of La Grange ABC Administrator are authorized to enforce this chapter for alleged violations.
- (2) Investigation and inspection of premises. The City of La Grange ABC Administrator and any investigator acting under the authority of the City ABC Administrator, shall have the full police powers of peace officers within the boundaries of the city. They, as well as any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked without first obtaining a search warrant.

(21) FAILURE TO PAY FINES

The failure of any person or entity to pay any fine imposed upon such person or entity by the City of La Grange ABC Administrator or hearing officer for violations of this ordinance within 30 days of its imposition shall be grounds for the issuance of an order by the City of La Grange ABC Administrator revoking the eligibility for employment of that person by licensees, or revoking the license issued by the City of La Grange ABC Administrator.

(21) SEVERABILITY

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

(22) PENALTY

- (A) The penalties for violations of this chapter that pertain to alcoholic beverage laws that are set forth in KRS Chapters 241 through 244 shall be the same as provided by such chapters. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.
- (B) Any person under the age of 18 years who violates any provisions of this ordinance shall be dealt with in accordance with the procedure prescribed by statute for minors charged with the commission of a public offense.
- (C) Any penalty and/or fines imposed under subsections (A) and/or (B) shall be in addition to and independent of any action which may be taken by the City of La Grange Alcoholic Beverage Administrator, in accordance with the provisions of the State of Kentucky Alcoholic Beverage Control laws and Administrative Rules and Regulations.
- (D) In addition to any criminal penalties that may be prescribed, any person or entity that violates the provisions of this ordinance shall appear before the City of La Grange ABC Administrator or the City of La Grange Alcoholic Beverage Control Board hearing officer for a civil hearing, and shall be subject to a civil penalty of not less than \$200 and not more than \$500 for each violation if convicted, if a penalty is not otherwise established in this ordinance. Any imposed fine shall be delivered to the City Clerk to be deposited in the appropriate designated account within ten (10) days after the date that a written decision of the City of La Grange ABC Administrator is issued in which the fine is assessed. An appeal of the written decision of the City of La Grange ABC Administrator does not stay the requirement to deliver the fine to the City Clerk. This section shall not apply to obligations imposed upon the City of La Grange ABC Administrator or his or her employees under those sections. Notice of hearings shall be provided by delivering the same by U. S. Mail to the address that was provided by the licensee with the application for the license, unless a change of address is submitted to the City of La Grange Administrator subsequent to the submission of the application for license. Notice to the licensee must be postmarked at least seven days prior to the hearing. The City Attorney, or his designee, shall represent the city at the hearing. The licensee has the right to retain legal counsel for representation at the hearing; however, the City shall not provide counsel for the licensee if the licensee is unable to afford legal counsel. The City of La Grange ABC Administrator shall issue a written decision, including findings of fact and conclusions of law, within ten (10) days after the conclusion of the hearing. Any order of suspension or revocation issued by the City of La Grange ABC Administrator may be appealed to the State Alcoholic Beverage Control Board within thirty (30) days of the date of the order.

Section 2: Effective date

This ordinance shall take effect upon its reading, adoption and summary publication according to law.

Adopted this 4th day of September, 2012.

Introduction and First Reading: August 6, 2012

Second Reading and Passage: September 4, 2012

William Lammlein, Mayor

ATTEST:

To be a true Ordinance enacted by the City Council of the City of La Grange,
Kentucky on this 4th day of September, 2012.

Clerk, City of La Grange, Kentucky

VOTE:

FOR:	<u>6</u>
AGAINST:	<u>0</u>
ABSTAINED:	<u>1</u>
PRESENT:	<u>7</u>

DAVID VOEGELE
JUDGE-EXECUTIVE
DVOEGELE@OLDHAMCOUNTY.NET



JUDGE EXECUTIVE'S OFFICE

OLDHAM COUNTY
EJO Pg 279

JOHN BLACK
DEPUTY JUDGE-EXECUTIVE
JBLACK@OLDHAMCOUNTY.NET

OLDHAM COUNTY FISCAL COURT

100 WEST JEFFERSON STREET, SUITE 4, LA GRANGE, KENTUCKY 40031
OFFICE 502-222-9357 • FAX 502-222-3210
WWW.OLDHAMCOUNTY.NET

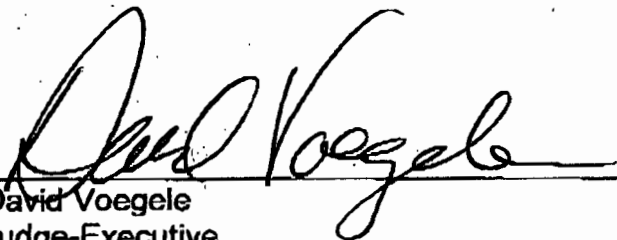
TINA SCHAAF
EXECUTIVE ASSISTANT
TSCHAAF@OLDHAMCOUNTY.NET

JUDGE/EXECUTIVE ORDER

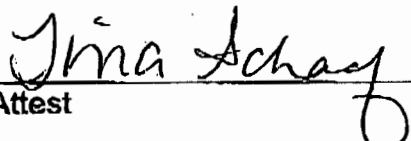
Oldham County Tourism Commission having filed with the Oldham County Clerk a written petition on May 1, 2012 for a special election to be held in the City of LaGrange among registered voters in Precincts B103, B105, C102, C104, D101, D102, D103, D105 and F105 to place the following proposition on a ballot to be voted on by said registered voters: "Are you in favor of the sale of alcoholic beverages in LaGrange, Kentucky?"

IT IS HEREBY ORDERED, that a special election in Precincts B103, B105, C102, C104, D101, D102, D103, D105 and F105 be held on Tuesday, July 24, 2012 to place the following proposition on a ballot: "Are you in favor of the sale of alcoholic beverages in the City of LaGrange?"

Witness my hand this 15th day of May, 2012.



David Voegele
Judge-Executive



Attest

DOCUMENT NO: 449141
RECORDED ON: MAY 15, 2012 08:46:07AM
COUNTY CLERK: JULIE K BARR
COUNTY: OLDHAM COUNTY
DEPUTY CLERK: NAUCY DONNER
BOOK EJO1 PAGES 279 - 279

ORDINANCE NO. 10-2004
ALCOHOLIC BEVERAGE CONTROL ORDINANCE

BE IT ORDAINED BY the City Council of LaGrange, Kentucky, that from and after the passage, approval and publication of this Ordinance, the following:

SECTION ONE: A new Ordinance is hereby created to read as follows:

ARTICLE I. IN GENERAL

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 100 persons and which derives a minimum of seventy percent (70%) of its gross receipts from the sale of food. To realize this, 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 percent (70%) of their gross receipts from the sale of food as certified by periodic documentation.

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 Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

Scope

This Ordinance shall only apply to the sale of malt, 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.

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

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**

- (a) The duties of the City Alcoholic Beverage Control Administrator (hereinafter referred to as the City ABC Administrator) are hereby assigned to the Chief of Police of the City of La Grange.

(b) The salary for the office of 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 Council.

(c) The functions of the City ABC Administrator shall be the same with respect to city licenses and regulations as the function of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as the 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 Council.

(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.

(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 of a licensee, or any stockholder, agent or employee of a licensed corporation, has a criminal record, he shall have the authority to require such person to appear in person at the LaGrange Police Department for the purpose of having his or her fingerprints taken.

(g) The City ABC Administrator shall before entering upon his or her duties as such 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).

(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 ABC Board as upon an original proceeding. Appeals from the orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

ARTICLE IV. APPLICATION/LICENSES

(a) Before an application 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.

- (1) The advertisement shall state the names and addresses of the members of the partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.
- (2) 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, as amended and supplemented from time to time.

(c) 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, and the ABC Board and the City, including as follows:

- (1) Name and address;

(2) Copy of Section F of State ABC license application;

Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee.

(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 Council and shall contain:

- (1) The name and address of the licensee;
- (2) The number of 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 shall begin on July 1 of any year and shall expire on June 30 of the following year.

(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 January 1 of any year shall be assessed a fee equal to one-half (1/2) of the annual fee for the remainder of the license period.

(i) In the event a violation of this Ordinance occurs that requires the revocation of the license, the City shall not be required to refund any portion of the license fee.

Fees Pursuant to KRS 243.070

(a) The annual City fee for a restaurant drink license shall be \$600.00 and for renewal, the fee shall be \$400.00. The annual City fee for a malt beverage license shall be \$200.00 and for renewal, the fee shall be \$100.00. These fees may be amended by the City Council from time to time if not inconsistent with applicable state statutes.

(b) The annual City license fee for the sale of alcoholic beverages on Sunday shall be \$1.00.

(c) The City ABC Administrator shall transmit fees upon collection to the City Clerk 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.

Refund of License Fees

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 wrongdoing by licensee or agent or employee of the licensee.

Lost or Destroyed Licenses:

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 dollars (\$10.00) for said duplicate.

Temporary Closing:

In the course of any one day of operation of a licensed premises should multiple violations of the Ordinance or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the City Police Department, such reoccurrence shall be reported to the City ABC Administrator by the Chief of Police. The City ABC Administrator may, in the interest of public health, safety, morals and welfare, direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispensing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City ABC Administrator; such review shall occur on the next business day.

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 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 Ordinance 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 Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, 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 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) Any license may 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 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 clerks, servants, agents or employees of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapters 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 felony or of 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 Ordinance 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) Revocation of any license 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.
- (6) Setting up, conducting, operating or keeping, on the licensed premises, any gaming 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.

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.
- (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.

Transfer or Assignment:

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.

Refusal of License:

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

- (a) 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 alcoholic beverage licensing, sales or the administration thereof.
- (b) If the applicant has done any act for which a revocation of license would be authorized; or
- (c) If the applicant has made any false material statement in his application.

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

Review of License

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) of the applicant's gross receipts 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 70% food requirement is 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 70% minimum food requirement has been met.

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 license fee shall be two and one half percent (2 1/2%) of gross sales of alcoholic beverages as set by the City Council. The City Council 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 July 1 to June 30.

(b) Payment of such regulatory fees shall be remitted to the City Clerk, and shall accompany the tax returns approved for such use by the City Council. 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 annual fees shall be deducted as credit.

(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.

(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.

Change of Information

(a) Since licenses issued by the city may be in the name of a corporation, it is necessary that stock ownership changes in such corporation be reported to the City ABC Administrator. The City ABC Administrator can therefore investigate the person to whom the 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 ten percent (10%) of the total stock shall require a new license.

Dormancy

(a) It is necessary that a licensee actually conducts 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, might have his 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, county or other governmental agency under the 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 cancelled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, county 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.

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 County building inspector, and any and all other inspections required by the Kentucky Building Code.

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 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 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.

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 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.

(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 correspondence to the City ABC Administrator required by statute shall be furnished to the City ABC Administrator.

ARTICLE V. HOURS FOR SALE AND DELIVERY

(a) The licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink Monday through Saturday between the hours of 6:00 am and midnight.

(b) Alcohol may be sold or dispensed on Sundays, between the hours of 1:00 p.m. and 11:00 p.m.

(c) The licensee shall provide a separate locked department in which all stocks of distilled spirits, wine and malt beverages are kept during these 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.

(e) The licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 am on January 1, regardless of the day of the week on which New Year's Eve occurs, provided that the appropriate licenses have been obtained from both the City and the state ABC Board. If New Year's Eve falls on a Sunday, alcoholic beverages may be sold and dispensed commencing at 1:00 p.m.; if New Year's Day falls on a Sunday, then alcoholic beverages may be sold and dispensed until 2:00 a.m. on January 1; provided, however, that in either instance, the

appropriate licenses for Sunday sales and for extended sales must be obtained from both the City and the state ABC Board. In either event, there shall be no additional City license fee imposed.

(f) 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. 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 Oldham 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, or his designated investigator, 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 premises. 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 eight inches by eleven inches (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 inches by fourteen inches (11" x 14") in size, with letters at least one inch (1") 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) Any off premises signage advertising the sale of alcoholic beverages is prohibited.

(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 or her business any person who:

1. Has been convicted of any felony within the last two (2) years;
2. 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;
3. Is under the age of 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;
4. Within two (2) years prior to the date of his employment has had any City license under this Ordinance revoked for cause.

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

ARTICLE VII. ENFORCEMENT

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

Investigation and Inspection of Premises

The City ABC Administrator and any investigator acting under the authority of the City ABC Administrator, shall have the full police powers of peace officers within the boundaries of the City. They, as well as any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked without first obtaining a search warrant.

Penalties

The following penalties shall be in addition to any criminal prosecution instituted in Oldham 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 Clerk 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) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation shall be fined not less than two hundred dollars (\$200.00) or imprisoned in the county jail for not more than six (6) 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, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

**ARTICLE VIII. MANDATORY RESPONSIBLE
BEVERAGE SERVICE TRAINING**

(a) All persons employed in the selling and servicing 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 Ordinance.

(b) All persons required to complete training under paragraph (a) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement. 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.

(c) The manager of the restaurant 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.

ARTICLE IX. SIGNS AND ADVERTISING

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

(b) Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises business cards not larger than two and one-half inches (2 ½") in size, setting forth the price at which he offers alcoholic beverages for sale.

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

(d) It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium of advertising alcoholic beverages.

(e) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

ARTICLE X. IMPLEMENTATION OF ORDINANCE PROVISIONS

From time to time the City Council may by resolution 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 Ordinance.

SECTION 2: SEVERABILITY

If any section, sentence, clause, or portion of this Ordinance is for any reason declared illegal, unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

SECTION 3: EFFECTIVE DATE

This Ordinance shall take effect on October 1, 2004.

ELSIE B. CARTER, MAYOR

ATTEST:

PEGGY W. STEPHENS, CITY CLERK

FIRST READING: MAY 3, 2004

SECOND READING AND PASSAGE: JUNE 7, 2004

VOTE:

FOR:	<u>8</u>
AGAINST:	<u>0</u>
ABSTAINED:	<u>0</u>