

ORDINANCE

**AN ORDINANCE OF THE CITY OF LANCASTER,
KY AMENDING ORDINANCE NUMBER 08-11**

WHEREAS, the voters of the City of Lancaster, Kentucky, have through a special election decided to permit the presence of alcohol manufacturing and sales within the limits of the City of Lancaster so long as such is done in accordance with all state and federal law;

WHEREAS, KRS Chapter 242 gives the fourth class of Lancaster the ability to regulate and manufacture and sale of alcoholic beverages,

WHEREAS, the Commonwealth of Kentucky has enacted into law Senate Bill 13, which in part. makes material changes to the alcohol license fee structure for local governments;

WHEREAS, the City Counsel of the City of Lancaster in the exercise of its fiduciary duties and responsibilities must now adjust the regulations and requirements related to alcoholic beverages; and

WHEREAS, it has been determined that an economic hardship exists in the City pursuant to KRS 242.185, in order to promote economic development.

NOW, THEREFORE, BE IT ORDAINED that Ordinance Number 08-11, Article III, Sections 3.02-3.06 of the Alcoholic Beverage Control Ordinance of the City of Lancaster, Kentucky be amended to read as follows:

Article III

Sections 3.02 -3.06

City License:

ALCOHOLIC BEVERAGE:

For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcohol 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 schedule set forth below. 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.

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1. The license fees are subject to the provisions of subsections 14, 15, 16 and 17 of this section, and shall not exceed the amounts specified in subsections 2. through 15. of this section.
2. 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 spirits and wine license, per annum \$3,000.00
 - d. Quota retail package license, per annum \$800.00
3. Quota retail drink license, per annum \$800.00
4. Special temporary license, per event \$133.00
5. Nonquota type 1 retail drink license (includes distilled spirits, wine, and malt beverages), per annum \$2,000.00
6. Nonquota type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum \$800.00
7. Nonquota type 3 retail drink license (includes distilled spirits, wine, and malt beverages), per annum \$300.00
8. Distilled spirits and wine special temporary auction license, per event \$200.00
9. Caterer's license, per annum \$800.00
10. Bottling house or bottling house storage license, per annum \$1,000.00
11. Malt beverage Licenses as follows:
 - a. Brewer's license, per annum \$500.00
 - b. Microbrewery license, per annum \$500.00
 - c. Malt beverage distributor's license, per annum \$100.00
 - d. Nonquota retail malt beverage package license, per annum \$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
12. Limited restaurant license (includes distilled spirits, wine, and malt beverages), per annum \$1,000.00
13. Limited golf course license (includes distilled spirits, wine, and malt beverages), per annum \$1,000.00
14. The fee for the following license types may not be increased by more than five percent (5%) above the January 1, 2013, fee for the current license or the former license type listed beside it, during any five (5) year period.
 - a. Quota retail package license: retail package liquor license;
 - b. Quota retail drink license; retail drink license
 - c. Nonquota type 1 retail drink license: convention center or convention hotel complex license;
 - d. Nonquota type 2 retail drink license: restaurant drink license;
 - e. Nonquota retail malt beverage package license: retail malt beverage license;
 - f. Nonquota type 4 retail malt beverage drink license: retail malt beverage license;
 - g. Limited restaurant license; and
 - h. Limited golf course license.

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15. The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.
16. The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).and
17. Happy Hour Restrictions are Licensees shall not offer reduced drink specials (i.e. two-for-one, happy hours) before 4:00 p.m. Monday through Saturday, nor after the hour of 8:00p.m. Monday through Saturday.

This Ordinance shall take effect upon adoption, execution and publication.

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Section 3: Reporting and Payment

- A. Reporting and Payment is the sole responsibility of the owner/operator of the business.
- B. Reports and payments are due to the City Clerk by the 20th of each month.

Section 4: Expanded Sales

- A. Allowable days and times for sales of alcoholic beverages (to include packaged malt beverages, packaged distilled spirits and wine, and by the drink) shall be expanded beyond current limitations.
- B. Owner/Operator of business engaged in the sale of above items shall, heretofore, be permitted to sell on Sundays.
- C. Sunday sales shall commence no sooner than 1:00 PM and shall end no later than 11:00 PM (excepting years in which December 31st falls on a Sunday, in which case sales shall be extended to 2:00 AM).
- D. Sales for Monday through Saturday shall end no later than 2:00 AM.

Section 4: Supersession

That any ordinance or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 5: Action

That this ordinance shall take effect and be in full force no later than 1 January 2013.

11-13-12
First Reading

12-11-12
Second Reading

12-20-12
Published

Brenda Powers, Mayor
Brenda Powers, Mayor
City of Lancaster

Attest:

Shari Lane
Shari Lane, Clerk
City of Lancaster

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ALCOHOLIC
BEVERAGE CONTROL

**AN ORDINANCE OF THE CITY COUNCIL REVISING
TAXATION RATES FOR THE SALE OF ALCOHOL AND
EXPANDING ALCOHOL SALES WITHIN THE CITY OF
LANCASTER**

WHEREAS, it is in the interests of the public for the City of Lancaster to regulate the sale of alcohol within the city limits.

WHEREAS, the City of Lancaster is responsible for the timely collection of fees and taxes resulting from the sale of alcohol within the city limits.

WHEREAS, the increased revenues from the sale of alcoholic beverages would materially improve the City of Lancaster's level of service to its citizens.

NOW, THEREFORE BE IT RESOLVED, THAT:

Existing tax rates for the sale of alcohol be amended.

Section 1: Tax Rates on Alcohol Sales

- A. Sales of packaged malt beverages: .0225
- B. Sales of packaged distilled spirits and wine: .0325
- C. Alcoholic beverages sold by the drink: .0425
- D. Failure to operate software that tracks the sale of alcohol separately from general sales will result in all sales being charged at the default rate of .05.

Section 2: Reimbursement to Business for Reporting Revenue and Collecting Tax

- A. All establishments legally engaged in the sale of the above items will, if they utilize software that tracks the sale of alcohol separately from general sales, may deduct .0025 from the total amount paid to the City of Lancaster.
- B. Software systems must be inspected, and approved, by the ABC Officer designated by the Lancaster City Council.
- C. Businesses who have not, heretofore, been utilizing an approved software, but have previously been in receipt of said deduction must be in compliance within three (3) months of passage of this ordinance.

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COUNCIL CONTROL

CHANGES TO ORDINANCE #08-11

1. Section 4.02 The change to this section is HOURS OF SALE the new start time is 6:00am.

2. Section 5.02 (b) The list below will be the new Regulatory license fee:
 - a. 1.25% tax on Beer sales
 - b. 2.25% on Liquor sales
 - c. 3.25% on sales by the drink


The above mention fees will only be used if the business has the software that can track each item separately. If they do not have this software than the 5% tax will remain in effect. The .25% will be the seller's amount of reimbursement for collecting the above mention fees.

First reading: 5 JAN 09

Second reading: 12 JAN 2009

Publication: 15 JAN 09


Don Rinthen, Mayor


Shari Lane, City Clerk

CITY OF LANCASTER

Alcohol Beverage Ordinance # 08-11

ALCOHOLIC BEVERAGE CONTROL ORDINANCE
OF THE
CITY OF LANCASTER, KENTUCKY

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Appendix "A" Notice to Minors, Example of Type

ARTICLE ONE: GENERAL PROVISIONS

Section 1.01 TITLE

This ordinance shall be known and may be cited as the Alcoholic Beverage Control ordinance of the City of Lancaster, Kentucky.

Section 1.02 INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED

- A. The provisions of the Kentucky Alcoholic Beverage Control laws contained in Kentucky revised Statutes (KRS) Chapters 241, 242, 243, and 244, pertaining to licenses and regulations of the State Alcoholic Beverage Control board, including definitions contained therein,, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control law of the City of Lancaster, except as otherwise lawfully provided herein. As used herein "State" means the Commonwealth of Kentucky, and "City" means the City of Lancaster, Kentucky.
- B. Any violation of State law relating to the sale, production, storing, or otherwise trafficking in alcoholic beverages shall also constitute a violation of this Ordinance.
- C. No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this ordinance and all State statutes and regulations applicable thereto.
- D. All prohibitions, restrictions and regulations pertaining to alcoholic beverages contained in KRS Chapter 244 shall apply to alcoholic beverage use in the City.

Section 1.03 SCOPE OF COVERAGE

- A. This ordinance shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine where the context permits such applications. Unless the context otherwise admits or requires, the term "alcoholic beverage" or "alcoholic beverages" shall mean and shall include distilled spirits, wine, and malt beverages.
- B. Nothing contained in this ordinance shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the City where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance or ordinances of the City or of any State statutes or regulations.

Section 1.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS

All monies derived from license fees or from fines as provided in this ordinance shall be paid to the treasury of the City and become a part of the general funds of the City.

Section 1.05 NOTICE TO STATE ABC BOARD OF FEES LEVIED

This ordinance is and shall be subject to the provisions of KRS 243.610. The City Clerk shall give notice to the State Alcoholic Beverage Board of any fees or assessments levied under the provisions of this ordinance.

ARTIVCLE TWO: ADMINISTRATION

Section 2.01 OFFICE OF ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR ESTABLISHED

- A. Pursuant to KRS 241.160, the office of Lancaster Alcoholic Beverage Control Administrator (LABC) is created
- B. Pursuant to KRS 241.170, the City Alcoholic beverage Control Administrator (LABC) shall be appointed by the Mayor, and such appointment shall be approved by the City Council. The City Alcoholic Beverage Administrator (LABC) shall serve at the pleasure of the Mayor.
- C. The City has heretofore, created the non-elected city office named "City Administrator". The Alcoholic Beverage Control Administrator official mandated by KRS 241.170 is referred in KRS Chapters 241 through 244 as "city administrator" and the definition of city administrator contained in KRS 141.010 (11) provides that this term "...means city alcoholic beverage control administrator". All references to city administrator in KRS Chapters 241 through 244 shall be construed, for the purposes of this ordinance, to refer to the Lancaster Alcoholic Beverage Control Administrator (LABC).

Section 2.02 CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR (LABC) TO ENFORCE

The LABC shall have the power and authority to promulgate such regulations as may be necessary to implement and/or administer this Ordinance.

Section 2.03 FUNCTIONS, DUTIES AND POWERS

- A. The functions of the LABC shall be the same with respect to City licenses and regulations as is the function of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to State licenses and regulations, except that no regulation of the LABC shall be less stringent than the State statutes and regulations relating to alcoholic beverage control. No regulation of the LABC shall become effective until it has been approved by the Board.
- B. The LABC shall have the same powers and duties with respect to suspension and revocation for cause of City licenses as the State Alcoholic Beverage Control Board has with respect to State licenses under KRS 241.060. The LABC, on his or her own initiative, or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this Ordinance.

Section 2.04 ADMINISTRATOR TO HAVE POLICE POWER

The LABC and the LABC's Investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the boundaries of the City. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant.

Section 2.05 RIGHT OF INSPECTION

The LABC shall have access at all reasonable times for inspections, all books and records required to be maintained by licensees under KRS 244.150, and shall simultaneously receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

The City shall have the power and authority to issue the following types of distilled spirits and wine licenses upon proper application and payment of the prescribed fee. The Section shall not be construed to limit the City's authority under KRS 242.185(4) and Section 3.05 of this Ordinance, or any other provision of law, to issue licenses permitted by KRS 243.070

	License Type	Fee
A	Wholesaler's license , per annum	\$3000
B	Retail Package license, per annum	\$600
C	Special Temporary wine license, per month or part of a month	\$50
D	Hotel/Motel/Inn or Restaurant Retail Drink license, per annum	\$600

Section 3.03 MALT BEVERAGE LICENSES; FEES

The City shall have the power and authority to issue the following kinds of malt beverage licenses upon proper application and the payment of prescribed fee:

	License Type	Fee
A	Distributor's license, per annum	\$100
B	Retailer's license, per annum	\$200
C	Special Temporary Retail Malt Beverage license, per month or part of a month	\$25

Section 3.04 RESTAURANT WINE LICENSE; FEES

- A. A restaurant wine license may be issued to an applicant who is an owner or lessee of a restaurant which receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of fifty (50) personals at tables.
- B. The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2).
- C. A restaurant wine license shall authorize a licensee to purchase, receive and sell wine at retail for consumption on the licensed premises. Such licensee shall purchase wine only from licensed wholesale.
- D. The fee for a restaurant wine license shall be six hundred dollars (\$600.00) per annum, for a new applicant, and four hundred dollars (\$400.00) per annum for a renewal license.

Section 3.05 CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE

- A. The City Council of the City, 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 destruction of a significant number of commercial buildings, both in the Central Business District, and elsewhere, and a significant number of vacancies in the remaining commercial buildings in the City. The City Council has further determined that the licensing authorization contained in subsections "B" and "C" of this Section could aid economic growth. Further, the City Council adopts this Ordinance, i.e. the "Alcoholic Beverage Control Ordinance of the City of Lancaster", as a comprehensive, regulatory ordinance covering, inter alia, the licensing and operation of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

- D. The fee for a restaurant wine license shall be six hundred dollars (\$600.00) per annum, for a new applicant, and four hundred dollars (\$400.00) per annum for a renewal license.

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- B. The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages if a malt beverage license is obtained. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons at tables, or bona fide restaurants open to the general public having dining facilities for not less than one hundred (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 fifty percent (50%) of their gross revenue from the sale of food; this requirement is and shall be in accord with KRS 242.1295. The fee for such a license shall be six hundred dollars (\$600.00) per annum.
- C. In accordance with KRS 242.185(4), the CCABC is authorized to issue any license permitted by KRS 242.070, 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 Ordinance, the City of Lancaster 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 ordinance, and any other provision of this ordinance or State law, shall conform to the requirements of KRS 241.190.

Section 3.06 SPECIAL PRIVATE CLUB LICENSE; FEES

The City shall have the power and authority to issue a private club license to any nonprofit social, fraternal, military or political organization or club, which for more than one year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded. The license shall authorize the licensee to exercise the privileges of a retail malt beverage licensee, and distilled spirits and wine retail drink licensee at the designated premises, if the general public is excluded. All restrictions and prohibitions applying to a distilled spirits and wine retail drink license shall apply to a special private club licensee. (KRS 243.270)

The fee for this category of license shall be:

License Type	Fee
Special Private Club License, per annum	\$300

Section 3.08 MALT BEVERAGE CONSUMPTION ON PREMISES

The City Council of the City has determined that it is desirable and appropriate to regulate conduct on premises licensed to sell malt beverages at retail. State law makes no distinction between package sales of malt beverages and sale of malt beverages for consumption on the premises. The City finds that while a number of licensed premises may be suitable for the sale of malt beverages to be removed for consumption elsewhere, there are also a number of premises which are not suitable or appropriate for consumption of malt beverages on the premises. Examples include, but are not limited to, package distilled spirits and wine stores, grocery stores, convenience stores, and premises which do not have adequate facilities for the congregation of customers who are consuming on premises, such as availability of food, adequate restrooms, and at least a minimum of seating for customers.

- A. Except for special temporary retail malt beverage licenses issued for consumption of malt beverages on the premises, no malt beverage licensee shall allow consumption of any malt beverage on the licensed premises unless the licensee also holds, for the same premises a:
 - a. Restaurant wine license, or
 - b. Hotel/motel/inn drink license, or
 - c. Restaurant drink license, or
 - d. Special private club license.

- B. If no license set out in subsection (A) of this section is held by the malt beverage licensee, malt beverage consumption on the premises may nevertheless be allowed by the licensee on a restaurant premises having seating at tables for no less than 50 persons, and which receives no less than fifty percent (50%) of its total of food sales and alcoholic beverage sales from the sale of food.

- C. The intent of this section is to regulate and establish standards of conduct on premises selling malt beverages under license. This section shall not be construed as imposing any limitation upon the number of malt beverage licenses issued pursuant to this Ordinance. Nothing contained in this section shall be construed as prohibiting a licensee from selling malt beverages upon the licensed premises. The sole prohibition contained in this section is allowing consumption of malt beverages on the licensed premises if the nature of the

premises does not conform with one of the situations described in (A)(1), (2), (3), or (4); or subsection (B) of this section.

Section 3.09 SPECIAL SUNDAY SALE LICENSES NOT AUTHORIZED

This Ordinance shall not be construed to authorize City special Sunday sale retail drink licenses.

Section 3.10 LICENSE TERM; RENEWAL

Applications for renewal of licenses required by this Ordinance shall be made for each license year, which, in order to coincide with the State license year, shall begin the first day of May and extend through the last day of April of the succeeding year. Applications for renewal are to be filed with the LABD no less than fifteen (15) nor more than forty-five (45) days prior to expiration.

Section 3.11 PRO-RATION; REFUNDS PROHIBITED

Pro-ration of fees shall be as provided for State licenses in KRS 243.090. In the event any licensee shall cease doing business for any reasons, no refund of the City license fee shall be granted to such licensee.

Section 3.12 ASSIGNMENT, TRANSFER, CONTINUANCE, LICENSE REPLACEMENT

- A. The assignment, transfer, continuance, pledge or hypothecation of City licenses shall be governed by the provisions of KRS 243.630, 243.640, 243.650, and 243.660. An approval by the State, under those statutes, shall be deemed an approval by the City. Non-approval by the State shall be deemed as non-approval by the City. No City license may be sold or otherwise transferred (including transfer to another premises) unless the proposed transfer shall have first received the approval of the State Board, and thereafter the acknowledgment of the LABC is given. A transfer fee of \$25.00 shall be paid to the City.
- B. When a license has been lost or destroyed, the LABC may issue a duplicate or replacement license upon payment of a fee of \$25.00.

Section 3.13 LOCATION OF BUSINESS RESTRICTED

- A. Licenses under this Ordinance shall not authorize the conduct of business in any place other than that described in the original State application and license. Any additional buildings or rooms attached to licensed premises and requiring separate service bars shall require a City supplemental bar license.
- B. No retail distilled spirits and wine package license shall be granted for a premises which is located within 1000 feet of any other premises licensed for retail distilled spirits and wine package sales. The distance stated herein shall be measured in accordance with KRS 241.075(3).

Section 3.14 APPLICATION; CONTENTS; EMERGENCY ACTION

An applicant for a license under this ordinance shall file with the LABC a copy of such applicant's State license application containing the information required by KRS 243.380

and 243.390. The City application shall include the consent of the applicant permitting the LABC to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance, statute, or regulation, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the LABC, which review shall occur within thirty six (36) hours of the imposition of the temporary closure.

Section 3.15 APPROVAL OR DENIAL OF APPLICATION

- A. If upon review of the application, the LABC may approve the application if the LABC determines that:
- a. The applicant has complied with all requirements of the State Alcoholic beverage Control law, as well as all regulatory provisions of this Ordinance;
 - b. The location is one that can be approved, including but not limited to the requirements of KRS 243.220;
 - c. A license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and
 - d. There are no other causes for denial of the license.
- B. If the LABC has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the LABC may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The LABC shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the Administrator. Any decision by the Administrator on the application shall be subject to appeal as provided by law.

Section 3.16 PAYMENT OF FEES

Upon approval of the application by the LABC, the applicant shall pay to the City Clerk the amount of the license fee provided in this ordinance in the form of a certified check, money order or cash. Payment shall be held on deposit by the City pending State license approval and issuance of the City license by the LABC.

Section 3.17 POSTING OF LICENSES; PUBLIC RECORD

Each City license shall be in substantially the same form prescribed by KRS 243.440 for State licenses, and shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for State licenses. An exact duplicate or facsimile of each City license shall remain in the LABC's office as part of the public record.

Section 3.18 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL

- A. Under the provisions of the Kentucky Revised Statutes, all administrative regulations promulgated pursuant to the provisions of the Kentucky Revised Statutes, and this ordinance, as they may be amended from time to time, a quota system may exist for the

number of licenses to sell alcoholic beverages in the City. Therefore, it is necessary that a licensee actually conduct the business authorized by the license or else the license will be declared dormant and become null and void after ninety (90) days. Because a licensee, like any other business, may suffer an interruption of business by situations not under the licensee's control, various exceptions to this dormancy rule are included in subsection (B).

- 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 LABC, except that any licensee who is unable to continue in business at the licensed premises may apply to the State Alcoholic Beverage Control Department, pursuant to 804 KAR 4:110, as amended from time to time, to continue such license in dormancy. In the event a period of dormancy is applied for or granted by the State, to the licensee, the licensee shall immediately notify the LABC. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the LABC and a fee shall be due and payable to the LABC for the period the license was in dormancy in the same amount due had the license remained active for the same period.
- C. Applications approved by the LABC and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premises involved. Extensions may be granted by the LABC as he or she deems appropriate in exercise of sound discretion based on facts and circumstances surrounding each request.
- D. Applications for renewal of licenses and payment of the license fee must be on file with the LABC at least fifteen (15) days, but not more than forty-five (45) days, before the expiration of the licenses for the preceding license period, or the license shall be cancelled. However, the licensee may file a written, verified Statement at least fifteen (15) days prior to the expiration date of the license, setting forth facts justifying an extension. The LABC may then extend the time for filing an application for renewal of the license for a reasonable length of time within the exercise of his or her sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

Section 3.1 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE

- A. Causes for refusal to issue or renew a City 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, the administration of licenses, or a licensee allowing conduct on the licensed premises which is prohibited by this Ordinance.
- B. No license to sell alcoholic beverages shall be granted or renewed to any person or other entity 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. If a licensee becomes delinquent in the payment of any taxes or fees due the City at any time during the license period, the license to sell alcoholic beverages shall be subject to revocation or suspension. The LABC may, in his or her discretion, approve a license to sell after receiving from the City Clerk, a written Statement to the effect that the applicant for the license has paid the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees which are due and payable by the licensee.

- C. No retail package liquor license shall be issued for any premises unless the applicant certifies under oath that ninety percent (90%) of the total projected gross receipts from sale made at the licensed premises during the twelve (12) month period following the issuance of the license shall consist of the projected gross receipts from sales of alcoholic beverages. No retail package liquor shall be renewed for any premises unless ninety percent (90%) of its gross receipts from sales for the immediate past month and the immediate past twelve (12) months have been derived from the sale of alcoholic beverages.
- D. Appeals may be taken from decisions of the LABC to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

ARTICLE FOUR: SALE OF ALCOHOLIC BEVERAGES

Section 4.01 LICENSE REQUIRED FOR SALE

No person shall sell or dispense at retail or have in his possession for sale, any alcoholic beverages, nor manufacture or transport any alcoholic beverages in the City unless first procuring a license under the provisions of this Ordinance, all State statutes, and all regulations adopted pursuant thereto. This ordinance and those statutes and regulations shall be hereinafter singularly and collectively referred to as the alcoholic beverage control law. The revocation, suspension, non-renewal, or other action which obviates the State license shall also operate to invalidate the corresponding City license.

Section 4.02 HOURS OF SALE

- A. Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted to remain open during the hours of 8:00 a.m. to 12:00 midnight, but shall remain closed during the twenty-four (24) hours of Sunday, Christmas, and at any time when the election polls are open in the precinct in which the licensee's business is located.
- B. Premises for which there has been granted a licenses for ht retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 8:00 a.m. and 12:00 midnight, but shall be closed during the twenty-four (24) hours of Sunday, Christmas, and at any time when the election polls are open in the precinct in which the licensee's business is located. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages. The licensee shall be deemed to have complied with this subsection.

precinct which the license is granted. Premises for which a malt beverage license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or chilled malt beverages are locked up and/or un-chilled malt beverages are property placarded indicating that the sale of such goods is prohibited.

- D. Any licensee for sales of alcoholic beverages by the drink or package who violates the preceding section shall be deemed guilty of a misdemeanor, shall be punished in accordance with the provisions of this ordinance, and the license shall be subject to revocation or suspension within the discretion of the LABC.
- E. During the time a licensee's business is actually closed, the premises of any licensee for the sale of alcoholic beverages by the drink or package must be closed to and vacant of all customers and all persons except the licensee and employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented, or leased to anyone during closing hours for a party or for any other purposes.
- F. Wholesalers shall not deliver alcoholic beverages on Sunday.

Section 4.03 EXCEPTIONS TO MANDATORY CLOSING TIMES; REQUIREMENTS

- A. A licensee of a premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.
- B. A licensee of a premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; a licensee of a premises holding a restaurant wine license; and a licensee of a premises holding a packaged liquor license shall be allowed to sell alcoholic beverages 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 State.

Section 4.04 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic beverages are found on the outside of the locked or closed-off department of any licensed premises at any hours during which the licensee is prohibited by the State law or by this Ordinance from selling alcoholic beverages, a prima facie presumption shall arise that such alcoholic beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this Ordinance and the State law, and shall be grounds for revocation or suspension of the license. In addition to other penalties provided for the violation of this Ordinance, the LABC is hereby authorized to confiscate the alcoholic beverages.

Section 4.05 ADVERTISING RESTRICTIONS

- A. No sign, banner, poster or other type of display 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 window of the licensed premises business price cards not larger than two and one half (2 ½) inches in size, setting forth the price at which he offers alcoholic beverages for sale.

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- A. No sign, banner, poster or other type of display 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 window of the licensed premises business price cards not larger than two and one half (2 ½) inches in size, setting forth the price at which he offers alcoholic beverages for sale.
- B. No flashing, oscillating, rotating, shimmering, or other lights demonstrating movement, or the illusion of movement, shall be used to illuminate, or be visible from, the exterior of any premises licensed under this ordinance.
- C. It shall be unlawful for any person holding any license under this ordinance to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.
- D. Any advertising by any licensee under this Ordinance shall be in compliance with this ordinance, KRS 244.130, and any regulation promulgated pursuant to KRS 244.130.

Section 4.06 RETAIL SALES TO CERTAIN PERSONS PROHIBITED

No retail licensee shall sell, give away or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away or delivered to:

- A. A minor, except that in any action against a licensee for selling alcoholic beverages to a minor it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. The evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.
- B. A person actually or apparently under the influence of alcoholic beverages
- C. A habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.
- D. Anyone known to the seller to have been convicted of driving under the influence of an intoxicant, or any other misdemeanor attributed directly or indirectly to the use of alcoholic beverages, or of a felony within the preceding twelve (12) months.

Section 4.07 MINOR NOT TO POSSESS OR PURCHASE ALCOHOLIC BEVERAGES NOR TO MISREPRESENT AGE; USE OF FRAUDULANT IDENTIFICATION

- A. As used in KRS 244.083 and this section "premises" means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.
- B. With regard to persons under 21 years of age:

- a. Except as herein provided, no person under 21 years of age shall enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
 - b. No person holding any license for on-premises consumption of distilled spirits and wine or a license for retail malt beverage sales, or any clerk, servant, agent or employee thereof shall permit any person under the age of twenty one (21) years on the licensed premises unless such premises is a restaurant, grocery store, hotel, private club, or upon the premises for a temporary licensed event, including plays or bona fide concerts. In such exempted premises, persons under the age of twenty one (21) years of age shall not enter the barroom area.
 - c. Minors not accompanied by a parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the hour of 10:00 p.m. unless the minor remains only in the designated restaurant area which is clearly separated from both the barroom area and any area provided for dancing.
 - d. The prohibitions set forth in subsection (a.) (b.) and (c.) shall not apply to persons under the age of twenty one (21) who are working on the premises, either as an employee or an independent contractor, which persons may enter and remain on said premises while they are working and at no other time.
- C. A licensee or any of his or her clerks, servants, agents, or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he or she:
- a. Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and permits any person under the age of twenty one (21) to possess or consume any alcoholic beverage on the premises; or
 - b. Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and allows or permits any person under the age of twenty one (21) years to remain on the premises while that person possesses or consumes any alcoholic beverage.
- D. In the event a violation occurs under the provisions of this section, the LABC shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with 241.160 and 241.190), to determine whether the licensee, at whose business establishment the prohibited activity occurred, may have such license suspended or revoked. In the event three (3) or more violations under the provisions of this section occur at a business establishment within a twelve (12) month period, the LABC, after a hearing, shall suspend or revoke said license.
- E. No person under twenty one (21) years of age shall possess for his or her own use, or purchase or attempt to purchase or have another purchase for him or her, any alcoholic beverages. No person shall aid or assist any person under twenty one (21) years of age in purchasing or having delivered or served to him or her any alcoholic beverages.
- F. No person under twenty one (21) years of age shall misrepresent his or her age for the purpose of inducing any licensee or other employee of any licensee to sell or serve any alcoholic beverages to such person.

- G. No person under twenty one (21) years of age shall use, or attempt to use, any false, or fraudulent, or altered identification card or paper, or any other document, to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

Section 4.08 LICENSEE TO DISPLAY NOTICE REGARDING SALE TO MINORS

Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows:

Persons under the age of twenty one (21) are subject to a fine up to one hundred dollars (\$100.00) if they:

- a. Enter licensed premises to buy, or have served to them, alcoholic beverages.
- b. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
- c. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

(FOR EXAMPLE, SEE APPENDIX A)

ARTICLE FIVE: REGULATORY LICENSE FEE

Section 5.01 REGULATORY LICENSE FEE IMPOSED

- A. A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued for the purpose of insuring full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the City. The City Council shall adopt, at het budget adoption for the fiscal year, an annual rate for the regulatory license fee 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 in the City. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to the licenses imposed under the provisions of this ordinance.
- B. The regulatory license fee shall be five percent (5%) for the licensing year beginning October 9, 2008 and continuing thereafter until amended or repealed.

Section 5.02 PAYMENT

Payment of the regulatory license fee shall accompany tax returns approved for use by the LABC and the City Clerk. The return shall be submitted to the LABC by the twentieth (20th) day of each month for the preceding month's sales. The fraction of the fee required under the provisions of this ordinance, represented by one divided by the number of months for which the City license was issued, shall be deducted each month as a credit.

Section 5.03 FAILURE TO PAY

Failure to pay the monthly remittance within ten (10) days after the due date shall constitute a violation of this ordinance.

Section 5.04 INTEREST ON LATE PAYMENTS

Interest shall be assessed upon any past due payments at the rate of eighteen (18%) percent per annum.

Section 5.05 ADEQUATE RECORD KEEPING REQUIRED

Every licensee shall keep and maintain 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 State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the LABC. Where the sales of alcoholic beverages as the relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the LABC, the City Auditor, or any authorized representatives.

ARTICLE SIX: PENALTIES

Section 6.01 PENALTY FOR NONPAYMENT

If the holder of any license shall fail to pay the regulatory license fee imposed by this Section within ten (10) days of the due date, an automatic penalty of fifty dollars (\$50.00) shall be assessed for the first offense, an automatic penalty of one hundred dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of two hundred dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, the LABC may hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose on invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

Section 6.02 INFRACTION CONSTITUTES A MISDEMEANOR

- A. Any person who violates any provision of this ordinance for which no specific penalty is otherwise provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:
 - a. For the first offense a fine not to exceed five hundred dollars (\$500.00)
 - b. For any subsequent offense a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not more than six (6) months, or both.
 - c. Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.
- B. In addition to any other penalty provided for herein, any licensee violating any provision of this Ordinance shall be subject to suspension or revocation of such license, subsequent to a hearing before the LABC.

ARTICLE SEVEN: EFFECTIVE DATE; SEVERABILITY

Section 7.01 SEVERABILITY AND INTERPRETATION

The provisions of this Ordinance are severable, and the declaration by a Court of competent jurisdiction of the invalidity of any provision hereof shall not affect the validity of any other provision. The headings and captions contained in this Ordinance are solely for ease of use and reference, do not constitute a part of substance of this Ordinance, and shall not be used in the interpretation of any provision of this Ordinance.

Section 7.02 EFFECTIVE DATE; PUBLICATION AND READING BY SUMMARY

- A. This Ordinance shall become effective upon its passage, approval and publication as required by law. However, such effective date shall not operate to change the date upon which prohibition ceases to be in effect in the City pursuant to the local option election held on August 19, 2008.
- B. In accordance with KRS 83A.060, the reading and/or publication of this Ordinance may be made by an Ordinance Summary prepared by the City Attorney.

APPENDIX A:

Example 1:

NOTICE TO MINORS, EXAMPLE OF TYPE

PERSONS UNDER THE AGE OF TWNETY ONE (21) ARE SUBJECT TO A FINE UP TO ONE HUNDRED DOLLARS (\$100.00) IF THEY:

- Enter licensed premises to buy or have served to them alcoholic beverages.
- Possess, purchase, or attempt to purchase, or get another to purchase alcoholic beverages
- Misrepresent their age for the purpose of purchase or obtaining alcoholic beverages

Example 2:

IF YOU ARE UNDER 21 YEARS OLD, YOU CAN BE FINED UP TO \$100.00 IF YOU:

- Go into a business which sells alcoholic beverages for the purpose of buying any alcoholic beverages
- Actually purchase, attempt to purchase, or posses any alcoholic beverage
- Attempt or actually have someone obtain and alcoholic beverage for you
- Misrepresent your age in order to purchase or obtain an alcoholic beverae

MANDATORY BEVERAGE TRAINING

- (a) All persons employed in the selling and serving of alcoholic beverages shall participate in STAR training program.
- (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 STAR training not less than once every three (3) years thereafter.

This ordinance shall become effective upon publication. Ordinance # 08-11.

First reading: SEPT 15 2008

Second reading: OCT 6 2008

Publication: OCT 9 2008


Don Rinthen, Mayor


Shari Lane, City Clerk