

**AN ORDINANCE AMENDING CHAPTER 118.30
OF THE CITY OF MADISONVILLE CODE OF ORDINANCES
RELATING TO SALE OF ALCOHOLIC BEVERAGES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADISONVILLE, KENTUCKY AS FOLLOWS:

Section 118.30 of the City of Madisonville Code of Ordinances is hereby amended to read as follows:

118.30 Consumption of Drink on Premises; License Required; Fee

The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages by the drink for consumption on the premises. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than ~~one hundred (100)~~ fifty (50) persons, or bona fide restaurants open to the general public having dining facilities for not less than ~~one hundred (100)~~ fifty (50) persons. The fee for such a license shall be eight hundred dollars (\$800.00) per annum.

This Ordinance shall be effective upon publication hereof.

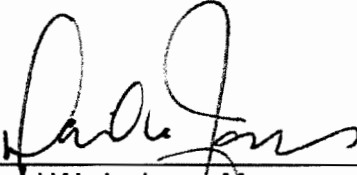
The foregoing Ordinance is read to and presented to a regular meeting of the City Council of Madisonville, Kentucky, for first reading on the 4th day of August, 2014, and the second reading on the 18th day of August, 2014. Motion was made by Council Member Myers, seconded by Council Member Stevenson, that the Ordinance be adopted as the law of the City of Madisonville, Kentucky, to be effective upon publication thereof as required by law.

Upon vote being taken thereon, the votes were cast as follows:

<u>COUNCIL MEMBERS</u>	<u>YEA</u>	<u>NAY</u>
Mark Lee	✓	___
Tom Morgan	✓	___
Raymond Marion	<u>Abstain</u>	___
Hannah Myers	✓	___
Frank Stevenson	✓	___
Bill Smith	✓	___

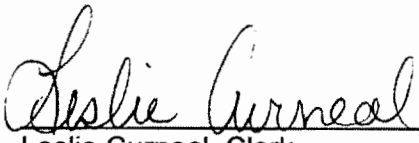
Members voted against it, the Mayor announced that the Motion was passed and that the above Ordinance would be published as required by law and would be effective as a New Ordinance of the City of Madisonville, Kentucky, to be effective upon publication thereof unless otherwise stated.

Dated this the 18th day of August, 2014.



David W. Jackson, Mayor
City of Madisonville, Kentucky

ATTEST:



Leslie Curneal, Clerk
City of Madisonville, Kentucky

CITY OF MADISONVILLE

ORDINANCE NO. 2013-20

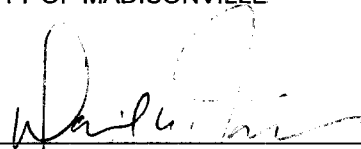
**AN ORDINANCE AMENDING SECTIONS OF CHAPTER 118
OF THE CITY OF MADISONVILLE CODE OF ORDINANCES
RELATING TO SALE OF ALCOHOLIC BEVERAGES**

ORDINANCE SUMMARY

On December 2, 2013, the Madisonville City Council adopted an Ordinance amending Chapter 118.25 of the Code of Ordinances relating to the sale of alcoholic beverages. The Ordinance provides for the establishment of different types of licenses for the sale of distilled spirits and wine, malt beverages, retail wine licenses and special private club licenses and the fees relating thereto. The Ordinance also regulates the hours of sale of alcoholic beverages.

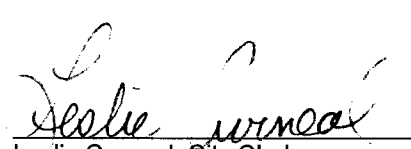
A copy of the entire Ordinance may be obtained from the Madisonville City Clerk.

CITY OF MADISONVILLE



David W. Jackson, Mayor

Attest:



Leslie Curneal, City Clerk

The foregoing Ordinance Summary
was prepared by:



Joe A. Evans III
Madisonville City Attorney

11/20/13 10:00 AM
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CITY OF MADISONVILLE
ORDINANCE NO. 2013- 20

**AN ORDINANCE AMENDING SECTIONS OF CHAPTER 118
OF THE CITY OF MADISONVILLE CODE OF ORDINANCES
RELATING TO SALE OF ALCOHOLIC BEVERAGES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADISONVILLE, KENTUCKY AS FOLLOWS:

Section 118.25 of the City of Madisonville Code of Ordinances is hereby amended to read as follows:

118.25 Number of Licenses

The Number of retail package, retail drink, retail beer, wholesale beer distributors and wholesale distilled spirits distributors ~~and wholesale distilled spirits distributors~~ licenses issued in the city shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243 or 244 and all administrative regulations promulgated pursuant thereto, as may be amended from time to time.

Section 118.26 of the City of Madisonville Code of Ordinances is hereby amended to read as follows:

118.26 Distilled Spirits and Wine License; Fees

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

License Type	Fee
(A) <u>Non-quota Type-1 Retail Drink License - Convention Center, (Includes Distilled Spirits, Wine & Malt Beverages), Per Annum</u>	<u>\$800</u>
(B) <u>Quota Retail Package License, Per Annum</u>	<u>\$600</u>
(C) <u>Non-quota Type-2 Retail Drink License, (Includes Distilled Spirits, Wine & Malt Beverages), Per Annum</u>	<u>\$800</u>
(D) <u>Special, Temporary License, Per Event (Includes Distilled Spirits, Wine & Malt Beverages)</u>	<u>\$75</u>
(A) <u>Wholesaler's license, per annum</u>	<u>\$100</u>
(B) <u>Retail Package license, per annum</u>	<u>\$600</u>
(C) <u>Special Temporary license, per month or part of a month</u>	<u>\$100</u>
(D) <u>Retail Drink License, per annum</u>	<u>\$600</u>

Section 118.27 of the City of Madisonville Code of Ordinances is hereby amended to read as follows:

118.27 Malt Beverage License; Fees

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

License Type	Fee
(A) <u>Malt Beverage Distributors License, Per Annum</u>	<u>\$200</u>
(B) <u>Non-quota Retail Malt Beverage Package License, Per Annum</u>	<u>\$200</u>
(C) <u>Non-quota Retail Malt Beverage Drink License, Per Annum</u>	<u>\$200</u>

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(D) Renewals, A, B and C	\$200
(A) Distributor's license, per annum	\$100
(B) Retailer's license, per annum	
(C) New applicant	\$200
(D) Renewals	\$200

Section 118.28 of the City of Madisonville Code of Ordinances is hereby amended to read as follows:

118.28 Restaurant Wine License; Repealed

~~(A) A restaurant wine license may be issued to an applicant, who is an owner or lessee of a restaurant which received fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of fifty (50) persons at tables.~~

~~(B) The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2) and 241.065.~~

~~(C) A restaurant wine license shall authorize a license to purchase, receive and sell wine at retail for consumption on the licensed premise. Such license shall purchase wine only from licensed wholesalers.~~

~~(D) The fee for a restaurant wine license shall be two hundred dollars (\$200.00), per annum.~~

Section 118.29 of the City of Madisonville Code of Ordinances is hereby amended to read as follows:

118.29 Special Private Club License; Fees

The City shall have the power and authority to issue a NQ-3 Retail Drink ~~(Non-quota Type 3 Retail Drink private club~~ license to any nonprofit social, fraternity, 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 privilege of a malt beverage, ~~or a distilled spirits and wine retail drink license, or both,~~ at the designated premises if the general public is excluded.

(KRS 243.270)

License Type	Fee
<u>Non-quota Type 3 Retail Drink License, Special Limited to Private Clubs,</u> per annum	<u>\$300</u>

Section 118.30 of the City of Madisonville Code of Ordinances is hereby amended to read as follows:

118.30 Consumption of Drink on Premises; License Required; Fee

The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages by the drink for consumption on the premises. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons, or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons. The fee for such a license shall be six eight hundred dollars ~~(\$600.00)~~ (\$800.00) per annum.

Section 118.32 of the City of Madisonville Code of Ordinances is hereby amended to read as follows:

118.32 Special Sunday Sale Licenses

Any person or entity possessing a valid NQ-2 retail drink license, ~~restaurant wine license~~, or a NQ-3 retail drink special private club license may apply for a special limited Sunday sale retail drink license to sell distilled spirits, or wine and malt beverages by the drink on Sunday between 1:00 p.m. and 10:00 p.m. No sale of alcoholic beverages may be sold on Sunday until the applicant has applied for and obtained a limited Sunday liquor by the drink license from the Kentucky ~~Cabinet~~ Department of Alcoholic Beverage Control and has paid all application license fees and costs associated therewith.

Section 118.61 of the City of Madisonville Code of Ordinances is hereby amended to read as follows:

118.61 Hours of Sale

(A) *Retail Package Sales.* 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 6:00 a.m. to 12:00 p.m. on weekdays, but shall remain closed during the twenty-four (24) hours of a Sunday. ~~and at any time when the polls are open or any special election is held in the precinct in which the license's business is located.~~

(B) *Retail Sale for Consumption on Licensed Premises.* Premises for which there had been granted a license for the retail sales of alcoholic beverages by the drink, shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 midnight Monday through Saturday, ~~but shall be closed on any primary or regular election day during the hours the polls are open in the precinct in which the license is granted.~~ However, if the licensee provides a separate department within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection. Sunday sales shall only be permitted pursuant to § 118.32 hereof.

(C) *Retail Sales of Malted Beverages.* Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 12:00 midnight Monday through Saturday, ~~but no such sales shall be made during any time when the polls are open for an election in the precinct in 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 unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

This Ordinance shall be effective upon publication hereof.

The foregoing Ordinance Ordinance is read to and presented to a regular meeting of the City Council of Madisonville, Kentucky, for first reading on the 18th day of November, 2013, and the second reading on the 2nd day of December, 2013. Motion was made by Council Member Myers, seconded by Council Member Lee, that the Ordinance be adopted as the law of the City of Madisonville, Kentucky, to be effective upon publication thereof as required by law.

Upon vote being taken thereon, the votes were cast as follows:

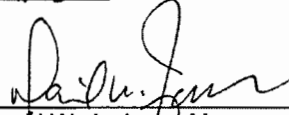
<u>COUNCIL MEMBERS</u>	<u>YEA</u>	<u>NAY</u>
Mark Lee	<u>2nd</u> ✓	_____
Tom Morgan	✓	_____
Raymond Marion	✓	_____
Hannah Myers	<u>1st</u> ✓	_____

Frank Stevenson
Bill Smith

✓
✓

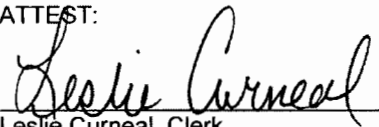
It appearing that 6 Council Members voted for the Motion and 0 Council Members voted against it, the Mayor announced that the Motion was passed and that the above Ordinance would be published as required by law and would be effective as a New Ordinance of the City of Madisonville, Kentucky, to be effective upon publication thereof unless otherwise stated.

Dated this the 2nd day of December, 2013.



David W. Jackson, Mayor
City of Madisonville, Kentucky

ATTEST:



Leslie Curneal, Clerk
City of Madisonville, Kentucky

CITY OF MADISONVILLE, KY
ORDINANCE O-2016-10

AN ORDINANCE AMENDING CHAPTER 118 OF THE CITY OF MADISONVILLE CODE OF
ORDINANCES AMENDING THE LICENSE TERM FOR THE SALE OF ALCOHOLIC
BEVERAGES

BE IT ORDAINED BY THE CITY OF MADISONVILLE, KY, AS FOLLOWS:

Chapter 118 of the City of Madisonville Code of Ordinances is hereby amended to add the following paragraph:

§118.33 LICENSE TERM; RENEWAL.

Application for renewal of licenses required by this section shall be made for each ~~first~~ Year beginning the first day of ~~May~~ July and extending through the last day of ~~April~~ June of the succeeding year. Applications for renewal are to be filed with the City Alcoholic Beverage Control Administrator fifteen (15) days prior to expiration.

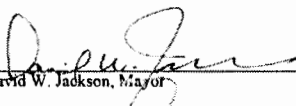
The foregoing Ordinance is read to and presented to a regular meeting of the City Council of Madisonville, Kentucky, for first reading on the June 6, 2016 and the second reading on the June 20, 2016. Motion was made by Mark Lee, seconded by Frank Stevenson, that the Ordinance be adopted as the law of the City of Madisonville, Kentucky, to be effective upon publication, as required by law.

Upon vote being taken thereon, the votes were cast as follows:

RESULT: ADOPTED [UNANIMOUS]
MOVER: Mark Lee, Ward 1
SECONDER: Frank Stevenson, Ward 5
AYES: Lee, Morgan, Marion, McGaw, Stevenson
ABSENT: Bill Smith

It appearing that the Councilmembers voted [Unanimous] the Mayor announced that the Motion was Adopted and that the above Ordinance would be published as required by law and would be effective as a new Ordinance of the City of Madisonville, Kentucky, immediately upon publication thereof, unless otherwise stated.

Dated June 20, 2016


David W. Jackson, Mayor 6/16/2016

City of Madisonville, KY

ATTEST:


Leslie Curmeal, City Clerk 6/23/2016

City of Madisonville, KY

Madisonville, KY Code of Ordinances
<u>TITLE XI: BUSINESS REGULATIONS</u>
<u>CHAPTER 118: ALCOHOLIC BEVERAGES</u>

 CHAPTER 118: ALCOHOLIC BEVERAGES

Section

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- 118.02 Incorporation of state law; compliance required
- 118.03 Scope of coverage
- 118.04 Deposit of fees, fines to general fund
- 118.05 Notice of fees, assessments to State Alcoholic Beverage Board

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- 118.10 Alcoholic Beverage Control Administrator; office established
- 118.11 Administrator to enforce
- 118.12 Functions; duties and powers
- 118.13 Police power; administrator to have
- 118.14 Right of inspection

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- 118.26 Distilled spirit and wine licenses; fees
- 118.27 Malt beverage licenses; fees
- 118.28 Restaurant wine license; fees
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- 118.30 Consumption of drink on premises; license required; fees
- 118.31 All licenses required
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- 118.61 Hours of sale
- 118.62 Hours of sale, exceptions; requirements
- 118.63 Confiscation authorized if violations occur
- 118.64 Advertising restrictions
- 118.65 Retail sales to certain persons prohibited
- 118.66 Minors not to possess or purchase alcoholic beverages nor to misrepresent age; use of fraudulent identification
- 118.67 Licensee to display notice as to sales to minors

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- 118.80 Regulatory license fee imposed
- 118.81 Payment
- 118.82 Failure to pay
- 118.83 Interest on late payments
- 118.84 Adequate recordkeeping required
- 118.85 Penalty for nonpayment
- 118.86 Administration
- 118.99 Penalties

Appendix A: Notice to Minors, Example of Type

GENERAL PROVISIONS

☐ § 118.01 SHORT TITLE.

This chapter shall be known and may be cited as the Alcoholic Beverage Ordinance of the City of Madisonville, Kentucky.

(Ord. passed 5-7-92)

☐ § 118.02 INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED

(A) The provisions of the State Alcoholic Beverage Control laws contained in 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, except as otherwise lawfully provided herein.

(B) 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 chapter and all statutes and regulations of the state applicable thereto.

Penalty, see § 118.99

(C) All prohibitions, restrictions and regulations pertaining to alcoholic beverages found at KRS 244.010-244.600 shall apply to alcoholic beverage use in the city.

(Ord. passed 5-7-92)

☐ § 118.03 SCOPE OF COVERAGE.

(A) This chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such applications.

(B) Nothing contained in this chapter 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 ordinances or ordinances of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.

(Ord. passed 5-7-92)

☐ § 118.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS.

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

(Ord. passed 5-7-92)

☐ § 118.05 NOTICE OF FEES; ASSESSMENTS TO STATE ALCOHOL BEVERAGE BOARD.

This chapter 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 chapter.

(Ord. passed 5-7-92)

ADMINISTRATION

☐ § 118.10 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; OFFICE ESTABLISHED.

There is established the office of Alcoholic Beverage Control Administrator **ADMINISTRATOR** as set out in § 30.26 of this code.

(Ord. passed 5-7-92)

☐ § 118.11 ADMINISTRATOR TO ENFORCE.

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

(Ord. passed 5-7-92)

☐ § 118.12 FUNCTIONS; DUTIES AND POWERS.

(A) The functions of the Administrator shall be the same with respect to the city license and regulations, as the function of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations, except that no regulation of the Administrator shall be less stringent than the statutes relating to alcoholic beverage control, or the regulations of the Board. No regulation of the Administrator shall become effective until it has been approved by the Board.

(B) The Administrator 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 Administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

(Ord. passed 5-7-92)

☐ § 118.13 POLICE POWER; ADMINISTRATOR TO HAVE.

The Administrator, and his Investigators, shall have the full police powers of peace officers, and their jurisdiction shall be co-extensive 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.

(Ord. passed 5-7-92)

☐ § 118.14 RIGHT OF INSPECTION.

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

(Ord. passed 5-7-92)

LICENSING REGULATIONS

☐ § 118.25 NUMBER OF LICENSES.

The Number of retail package, retail drink, retail beer, wholesale beer distributors and wholesale distilled spirits distributors and wholesale distilled spirits distributors licenses issued in the city shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243 or 244 and all administrative regulations promulgated pursuant thereto, as may be amended from time to time.

(Ord. passed 5-7-92)

☐ § 118.26 DISTILLED SPIRITS AND WINE LICENSES; FEES

The city shall have the power and authority to issue the following kinds of distilled spirits and wine licenses upon proper application and the payment of the prescribed fee:

License Type	Fee
(A) Wholesaler's license, per annum	\$100
(B) Retail Package license, per annum	\$600
(C) Special Temporary license, per month or part of a month	\$100
(D) Retail Drink license, per annum	\$600

(Ord. passed 5-7-92)

☐ § 118.27 MALT BEVERAGE LICENSES, FEES

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

License Type	Fee
Distributor's license, per annum	\$100.00
Retailer's license, per annum	
New applicant	\$200.00
Renewals	\$200.00

(Ord. passed 5-7-92)

☐ § 118.28 RESTAURANT WINE LICENSE; FEE

(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) persons at tables.

(B) The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2) and 241.065.

(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 wholesalers.

(D) The fee for a restaurant wine license shall be two hundred dollars (\$200.00), per annum.

(Ord. passed 5-7-92)

☐ § 118.29 SPECIAL PRIVATE CLUB LICENSE; FEES.

The city shall have the power and authority to issue a private club license to any nonprofit social, fraternity, 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 privilege of a malt beverage or a distilled spirits and wine retail drink license, or both, at the designated premises if the general public is excluded.

(KRS 243.270)

License Type	Fee
Special Private Club License, per annum	\$300.00

(Ord. passed 11-17-92)

☐ § 118.30 CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE.

The city shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages by the drink for consumption on the premises. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons, or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons. The fee for such a license shall be six hundred dollars (\$600.00) per annum.

(Ord. passed 5-7-92)

☐ § 118.31 ALL LICENSES REQUIRED.

License fees in the amounts herein provided shall be charged for each location in which any person engages in any classification of business authorized under this section, and if more than one classification of business is conducted at any location, a license shall be charged for each of the privileges exercised.

(Ord. passed 5-7-92)

§ 118.32 SPECIAL SUNDAY SALE LICENSES.

Any person or entity possessing a valid retail drink license, restaurant wine license, or a special private club license may apply for a special limited Sunday sale retail drink license to sell distilled spirits or wine by the drink on Sunday between 1:00 p.m. and 10:00 p.m. No sale of alcoholic beverages may be sold on Sunday until the applicant has applied for and obtained a limited Sunday liquor by the drink license from the Kentucky Cabinet of Alcoholic Beverage Control and has paid all application license fees and costs associated therewith.

(Ord. passed 5-7-92; Am. Ord. 2011-06, passed 4-25-11; Am. Ord. 2011-10, passed 6-20-11)

§ 118.33 LICENSE TERM; RENEWAL.

Applications for renewal of licenses required by this section shall be made for each fiscal year beginning the first day of July and extending through the last day of June of the succeeding year. Applications for renewal are to be filed with the City Alcoholic Beverage Control Administrator fifteen (15) days prior to expiration.

(Ord. passed 5-7-92)

§ 118.34 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 him.

(Ord. passed 5-7-92)

§ 118.35 ASSIGNMENT, TRANSFER.

The assignment, transfer, pledge or hypothecation of city licenses shall be governed by the provisions of KRS 243.630, 243.650 and 243.660.

(Ord. passed 5-7-92)

§ 118.36 LOCATION OF BUSINESS RESTRICTED.

Licenses under this chapter shall not authorize the conduct of business in any place other than that specifically 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.

(Ord. passed 5-7-92)

§ 118.37 APPLICATION; CONTENTS.

An applicant for a license under this chapter shall file with the City Alcoholic Beverage Control Administrator a copy of his 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 City Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, 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 City Administrator within thirty-six (36) hours.

(Ord. passed 5-7-92)

§ 118.38 APPROVAL OR DENIAL OF APPLICATION.

(A) If upon review of the application, the City Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220, that a license may be issued within the quota limits fixed by

the State Alcoholic Beverage Control Board, and that there are no other causes for denial of the license, the Administrator shall approve the application.

(B) If the Administrator has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, he 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 Administrator 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.

(Ord. passed 5-7-92)

§ 118.39 PAYMENT OF FEES.

Upon approval of the application by the City Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order or cash. Payment shall be held in deposit by the city pending state license approval and issuance of the city license by the City Administrator.

(Ord. passed 5-7-92)

§ 118.40 POSTING OF LICENSES; PUBLIC RECORD.

Each city license in the same form prescribed by KRS 243.440 for state licenses 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 City Administrator's office as part of the public record.

(Ord. passed 5-7-92)

§ 118.41 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL.

(A) *Conditions for dormancy.* Under the provisions of KRS, all administrative regulations promulgated pursuant to the provisions of KRS and this chapter, as 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 have his business interrupted by situations not under his control, various exceptions to this dormancy rule are included in subsection (B).

(B) *Surrender of license and exceptions.* 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 Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, 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 Administrator to the licensee, the licensee shall immediately notify the City Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City Administrator and a fee shall be due and payable to the City Administrator for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(C) *Applications based on pending construction or development.* Applications approved by the City Administrator 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 Administrator as he deems appropriate in exercise of his sound discretion based on facts and circumstances surrounding each request.

(D) *Renewals, time for filing.* All renewal of licenses and payment of the license fee must be on file with the City Administrator fifteen (15) days before the expiration of the licenses for the

preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement fifteen (15) days prior to the expiration date of the license, setting forth the facts justifying an extension. The Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his 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.

(Ord. passed 5-7-92)

☞ § 118.42 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE.

(A) *State Law References.* 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 of licenses.

(B) *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 any delinquent taxes or fees due the city. 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. The City Administrator may, in his discretion, approve a license to sell after receiving from the City Treasurer, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Treasurer for taking care of 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) *Restrictions on Package Liquor License.* No retail package liquor license shall be issued for any premises unless the applicant certifies under oath that ninety (90) per cent 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 (90) per cent 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.* Appeals may be taken from decisions of the City Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

(Ord. passed 5-7-92)

Statutory reference:

Grounds for refusal of State License, see KRS 243.450

SALE OF ALCOHOLIC BEVERAGES

☞ § 118.60 LICENSES REQUIRED FOR SALE.

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverages, nor manufacture or transport any alcoholic or malt beverages in the city unless he shall first procure and have issued to him a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter those ordinances, statutes and regulations shall be hereinafter singularly and collectively referred to as the alcoholic beverage control law.

(Ord. passed 5-7-92) Penalty, see § 118.99

☞ § 118.61 HOURS OF SALE.

(A) *Retail Package Sales.* 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 6:00 a.m. to 12:00 p.m. on weekdays, but shall remain closed during the twenty-four

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(24) hours of a Sunday and at any time when the polls are open or any special election is held in the precinct in which the license's business is located.

(B) *Retail Sale for Consumption on Licensed Premises.* Premises for which there had been granted a license for the retail sales of alcoholic beverages by the drink, shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 midnight Monday through Saturday but shall be closed on any primary or regular election day during the hours the polls are open in the precinct in which the license is granted. However, if the licensee provides a separate department within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection. Sunday sales shall only be permitted pursuant to § 118.32 hereof.

(C) *Retail Sales of Malted Beverages.* Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 12:00 midnight Monday through Saturday but no such sales shall be made during any time when the polls are open for an election in the precinct in 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 unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

(D) *Violations; Revocation or Suspension of Licenses.* Any licensee for sales of alcoholic beverages by the drink or package who remains open for business at any time except the hours permitted under this section shall be deemed guilty of a misdemeanor and shall be punished in accordance with the provisions of this chapter and his license shall be subject to revocation or suspension within the discretion of the Alcoholic Beverage Control Administrator. Penalty, see 118.99

(E) *Control of Premises During Closing Hours.* During the closing hours, 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 his 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) *Wholesale Deliveries on Sundays Prohibited.* There shall be no delivery by wholesalers of alcoholic or malt beverages on Sunday.

(Ord. passed 5-7-92; Am. Ord. 2011-06, passed 4-25-11; Am. Ord. 2011-10, passed 6-20-11)

§ 118.62 HOURS OF SALE, EXCEPTIONS; REQUIREMENTS.

A premise that can demonstrate to the City Alcoholic Beverage Control Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than fifty percent (50%) of the total gross sales of the licensed restaurant for the annual license period 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.

(Ord. passed 5-7-92)

§ 118.63 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR.

If any alcoholic or malt 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 Alcoholic Beverage Control Act or by this chapter from selling alcoholic or malt beverages, a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license. In addition to other penalties provided for the violation of this chapter, the City

2011-10-10 10:10:10

Alcoholic Beverage Control Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

(Ord. passed 5-7-92)

☐ § 118.64 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 1/2) inches in size, setting forth the price at which he offers alcoholic beverages for sale.

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

(C) It shall be unlawful for any person, holding a license under this chapter to sell 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 connection with the sale of alcoholic beverages.

(D) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 or any regulation promulgated pursuant to KRS 244.130.

(Ord. passed 5-7-92; Am. Ord. 94-24, passed 10-17-94)

☐ § 118.65 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 prosecution 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 age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he 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) An habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Except as provided in § 3 above, anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or of a felony within the preceding twelve (12) months.

Penalty, see 118.99 (Ord. passed 5-7-92)

☐ § 118.66 MINORS NOT TO POSSESS OR PURCHASE ALCOHOLIC BEVERAGES NOR TO MISREPRESENT AGE; USE OF FRAUDULENT 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) (1) Except as herein provided, no person under twenty-one (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.

(2) No person holding any license for on-premises consumption of distilled spirits, wine or malt beverages, or any of his clerks, servants, agents or employees 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 premises for a temporary licensed event, including plays or bona fide concerts. In such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.

(3) Minors do not remain in barroom or dance area of restaurants. Minors not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a

restaurant after the local 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 area provided for dancing. The term **RESTAURANT** for the purposes of this subsection means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a "restaurant" within the meaning of this chapter.

(4) The prohibitions set forth in subsections (1), (2) and (3) 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.

(5) Violation of this Section shall be a misdemeanor and, upon conviction result in the following penalties:

(a) For the first offense a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(b) For each subsequent offense a fine of up to five hundred dollars (\$500.00) or confinement in jail for up to one hundred twenty (120) days, or both.

(C) A licensee or any of his clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he:

(1) 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

(2) 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) (1) In the event a violation occurs under the provisions of this section 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 activity prohibited by the aforementioned sections occurred, may have his license suspended or revoked.

(2) In the event three or more violations under the provisions of this section occur at a business establishment within a twelve (12) month period, the City Administrator, 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, fraudulent, or altered identification card or paper or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(Ord. passed 5-7-92)

§ 118.67 LICENSEE TO DISPLAY NOTICE AS TO 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:

(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.

(For example, see Appendix A)

(Ord. passed 5-7-92)

REGULATORY LICENSE FEE

§ 118.80 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 the 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 or fees imposed under the provisions of this chapter.

(Ord. passed 5-7-92)

(B) The regulatory license fee shall be four percent (4%) for the fiscal year beginning July 1, 2011 and continuing thereafter until amended or repealed.

(Ord. passed 6-15-92; Am. Ord. 2011-06, passed 4-25-11)

§ 118.81 PAYMENT

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

(Ord. passed 5-7-92)

§ 118.82 FAILURE TO PAY.

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

(Ord. passed 5-7-92)

§ 118.83 INTEREST ON LATE PAYMENTS.

Interest shall be assessed upon any past due payments at the rate of twelve percent (12%) per annum.

(Ord. passed 5-7-92)

§ 118.84 ADEQUATE RECORDKEEPING 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 City Alcoholic Beverage Control Administrator and approved by a majority of a quorum of the City Council. Where the sales of alcoholic beverages as they 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 City Alcoholic Beverage Control Administrator, the Director of Finance, or any authorized representatives.

(Ord. passed 5-7-92)

§ 118.85 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 City Alcoholic Beverage Control Administrator shall 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 of 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.

(Ord. passed 5-7-92)

☐ § 118.86 ADMINISTRATION.

Except as herein provided the regulatory license fee imposed shall be administered in accordance with the provisions of Chapter 110 of this code.

(Ord. passed 5-7-92)

☐ § 118.99 PENALTIES.

(A) Any person who violates any provision of this chapter for which no specific penalty is provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:

(1) For the first offense a fine not to exceed five hundred dollars (\$500.00);

(2) 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.

(B) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

Cross reference:

Penalty for violation of sale hours, § 118.61 (D)

Penalty for sale to minors, § 118.66

Penalty for nonpayment of regulatory fee, § 118.85

APPENDIX A: NOTICE TO MINORS; EXAMPLE OF TYPE

PERSONS UNDER THE AGE OF TWENTY-ONE (21) ARE SUBJECT TO A FINE 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.

(Ord. passed 5-7-92)

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CITY OF MADISONVILLE
ORDINANCE NO. 2011- 06

**AN ORDINANCE AMENDING CHAPTER 118 OF THE
CITY OF MADISONVILLE CODE OF ORDINANCES
RELATING TO SALE OF ALCOHOLIC BEVERAGES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADISONVILLE,
KENTUCKY AS FOLLOWS:

Chapter 118 of the City of Madisonville Code of Ordinances is hereby amended to read
as follows:

§ 118.32 SPECIAL SUNDAY SALE LICENSES UNAUTHORIZED.

~~This subchapter shall not be construed to authorized city special Sunday sale
retail drink licenses.~~

Any person or entity possessing a valid retail drink license, restaurant wine
license, or a special private club license may apply for a special limited Sunday sale
retail drink license to sell distilled spirits, wine or malt beverages by the drink on Sunday
between 1:00 p.m. and 10:00 p.m. No sale of alcoholic beverages may be sold on
Sunday until the applicant has applied for and obtained a limited Sunday liquor by the
drink license from the Kentucky Department of Alcoholic Beverage Control and has paid
all application license fees and costs associated therewith.

§ 118.61 HOURS OF SALE.

(B) Retail Sale for Consumption on Licensed Premises. Premises for which
there had been granted a license for the 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
~~each weekday~~ Monday through Saturday but shall be closed during the twenty-four (24)
hours of ~~each Sunday~~, Christmas and any time when the polls are open for any election
in the precinct in which the license is granted. However, if the licensee provides a
separate department within his licensed premises capable of being locked and closed
off within which is kept all stocks of alcoholic beverages and malt beverages and if the
department is kept locked during the foregoing time he is not permitted to remain open
to sell alcoholic beverages, he shall be deemed to have complied with this subsection.
Sunday sales shall only be permitted pursuant to §118.32 hereof.

§ 118.80 REGULATORY LICENSE FEE IMPOSED.

(B) The regulatory license fee shall be ~~three (3%)~~ four (4%) percent for the fiscal
year beginning July 1, ~~1992~~ 2011 and continuing thereafter until amended or repealed.

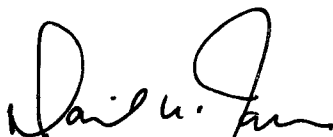
The foregoing Ordinance was read and presented to a regular meeting of the
City Council of Madisonville, Kentucky, for first reading on the 18th day of April, 2011,
and the second reading on the 25th day of April, 2011. Motion was made by
Councilmember Simmons, seconded by Councilmember
Myers, that the Ordinance be adopted as the law of the
City of Madisonville, Kentucky.

Upon vote being taken thereon, the votes were cast as follows:

COUNCILMEMBER	YEA	NAY
Dallas Cunningham	_____	<u>✓</u>
Rudy Stone	<u>✓</u>	_____
Raymond Marion	<u>Abstain</u>	_____
Hannah Myers	<u>✓</u>	_____
Bob Simmons	<u>✓</u>	_____
Bill Smith	_____	<u>✓</u>

Three (3) Councilmembers voted for the Motion, two (2) Councilmembers voted against it, and one (1) Councilmember abstained. The Councilmember's abstention vote is treated as having voted with the majority who voted in favor of the Ordinance. Accordingly, the Motion passed and the Ordinance was adopted. The above Ordinance shall be published as required by law.


Dated this 25th day of April, 2011.



David W. Jackson, Mayor
City of Madisonville, Kentucky

2011 APR 29 11:01 AM

Attest:



Gina Munger, City Clerk
City of Madisonville, Kentucky

*in Hartman County***CHAPTER 118: ALCOHOLIC BEVERAGES**

Section

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- 118.02 Incorporation of state law; compliance required
- 118.03 Scope of coverage
- 118.04 Deposit of fees, fines to general fund
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- 118.11 Administrator to enforce
- 118.12 Functions; duties and powers
- 118.13 Police power; administrator to have
- 118.14 Right of inspection

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- 118.26 Distilled spirit and wine licenses; fees
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- 118.30 Consumption of drink on premises; license required; fees
- 118.31 All licenses required
- 118.32 Special Sunday sale licenses unauthorized

- 118.33 License term; renewal
- 118.34 Pro-ration; refunds prohibited
- 118.35 Assignment; transfer
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- 118.37 Application; contents
- 118.38 Approval or denial of application
- 118.39 Payment of fees
- 118.40 Posting of licenses; public record
- 118.41 License to become void if business dormant; license renewal
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- 118.61 Hours of sale
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- 118.65 Retail sales to certain persons prohibited
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118.99 Penalties

Appendix A: Notice to Minors, Example of Type

GENERAL PROVISIONS

§ 118.01 SHORT TITLE.

This chapter shall be known and may be cited as the Alcoholic Beverage Ordinance of the City of Madisonville, Kentucky.

(Ord. passed 5-7-92)

§ 118.02 INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED

(A) The provisions of the State Alcoholic Beverage Control laws contained in 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, except as otherwise lawfully provided herein.

(B) 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 chapter and all statutes and regulations of the state applicable thereto.

Penalty, see § 118.99

(C) All prohibitions, restrictions and regulations pertaining to alcoholic beverages found at KRS 244.010-244.600 shall apply to alcoholic beverage use in the city.

(Ord. passed 5-7-92)

§ 118.03 SCOPE OF COVERAGE.

(A) This chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such applications.

(B) Nothing contained in this chapter 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 ordinances or ordinances of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.

(Ord. passed 5-7-92)

§ 118.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS.

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

(Ord. passed 5-7-92)

§ 118.05 NOTICE OF FEES; ASSESSMENTS TO STATE ALCOHOL BEVERAGE BOARD.

This chapter 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 chapter.

(Ord. passed 5-7-92)

ADMINISTRATION

§ 118.10 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; OFFICE ESTABLISHED.

There is established the office of Alcoholic Beverage Control Administrator *ADMINISTRATOR* as set out in § 30.26 of this code.

(Ord. passed 5-7-92)

§ 118.11 ADMINISTRATOR TO ENFORCE.

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

(Ord. passed 5-7-92)

§ 118.12 FUNCTIONS; DUTIES AND POWERS.

(A) The functions of the Administrator shall be the same with respect to the city license and regulations, as the function of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations, except that no regulation of the Administrator shall be less stringent than the statutes relating to alcoholic beverage control, or the regulations of the Board. No regulation of the Administrator shall become effective until it has been approved by the Board.

(B) The Administrator 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 Administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

(Ord. passed 5-7-92)

§ 118.13 POLICE POWER; ADMINISTRATOR TO HAVE.

The Administrator, and his Investigators, shall have the full police powers of peace officers, and their jurisdiction shall be co-extensive 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.

(Ord. passed 5-7-92)

§ 118.14 RIGHT OF INSPECTION.

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

(Ord. passed 5-7-92)

LICENSING REGULATIONS

§ 118.25 NUMBER OF LICENSES.

The Number of retail package, retail drink, retail beer, wholesale beer distributors and wholesale distilled spirits distributors and wholesale distilled spirits distributors licenses issued in the city shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243 or 244 and all administrative regulations promulgated pursuant thereto, as may be amended from time to time.

(Ord. passed 5-7-92)

§ 118.26 DISTILLED SPIRITS AND WINE LICENSES; FEES

The city shall have the power and authority to issue the following kinds of distilled spirits and wine licenses upon proper application and the payment of the prescribed fee:

<i>License Type</i>	<i>Fee</i>
(A) Wholesaler's license, per annum	\$100
(B) Retail Package license, per annum	\$600
(C) Special Temporary license, per month or part of a	\$100

month

(D) Retail Drink license, per annum \$600

(Ord. passed 5-7-92)

§ 118.27 MALT BEVERAGE LICENSES, FEES

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

<i>License Type</i>	<i>Fee</i>
Distributor's license, per annum	\$100.00
Retailer's license, per annum	
New applicant	\$200.00
Renewals	\$200.00

(Ord. passed 5-7-92)

§ 118.28 RESTAURANT WINE LICENSE; FEE

(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) persons at tables.

(B) The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2) and 241.065.

(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 wholesalers.

(D) The fee for a restaurant wine license shall be two hundred dollars (\$200.00), per annum.

(Ord. passed 5-7-92)

§ 118.29 SPECIAL PRIVATE CLUB LICENSE; FEES.

The city shall have the power and authority to issue a private club license to any nonprofit social, fraternity, 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 privilege of a malt beverage or a distilled spirits and wine retail drink license, or both, at the designated premises if the general public is excluded.

(KRS 243.270)

<i>License Type</i>	<i>Fee</i>
Special Private Club License, per annum	\$300.00

(Ord. passed 11-17-92)

§ 118.30 CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE.

The city shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages by the drink for consumption on the premises. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons, or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons. The fee for such a license shall be six hundred dollars (\$600.00) per annum.

(Ord. passed 5-7-92)

§ 118.31 ALL LICENSES REQUIRED.

License fees in the amounts herein provided shall be charged for each location in which any person engages in any classification of business authorized under this section, and if more than one classification of business is conducted at any location, a license shall be charged for each of the privileges exercised.

(Ord. passed 5-7-92)

§ 118.32 SPECIAL SUNDAY SALE LICENSES UNAUTHORIZED.

This subchapter shall not be construed to authorized city special Sunday sale retail drink licenses.

(Ord. passed 5-7-92)

§ 118.33 LICENSE TERM; RENEWAL.

Applications for renewal of licenses required by this section shall be made for each fiscal year beginning the first day of July and extending through the last day of June of the succeeding year. Applications for renewal are to be filed with the City Alcoholic Beverage Control Administrator fifteen (15) days prior to expiration.

(Ord. passed 5-7-92)

§ 118.34 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 him.

(Ord. passed 5-7-92)

§ 118.35 ASSIGNMENT, TRANSFER.

The assignment, transfer, pledge or hypothecation of city licenses shall be governed by the provisions of KRS 243.630, 243.650 and 243.660.

(Ord. passed 5-7-92)

§ 118.36 LOCATION OF BUSINESS RESTRICTED.

Licenses under this chapter shall not authorize the conduct of business in any place other than that specifically 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.

(Ord. passed 5-7-92)

§ 118.37 APPLICATION; CONTENTS.

An applicant for a license under this chapter shall file with the City Alcoholic Beverage Control Administrator a copy of his 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 City Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, 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 City Administrator within thirty-six (36) hours.

(Ord. passed 5-7-92)

§ 118.38 APPROVAL OR DENIAL OF APPLICATION.

(A) If upon review of the application, the City Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220, that a license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and that there are no other causes for denial of the license, the Administrator shall approve the application.

(B) If the Administrator has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, he 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 Administrator 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.

(Ord. passed 5-7-92)

§ 118.39 PAYMENT OF FEES.

Upon approval of the application by the City Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order or cash. Payment shall be held in deposit by the city pending state license approval and issuance of the city license by the City Administrator.

(Ord. passed 5-7-92)

§ 118.40 POSTING OF LICENSES; PUBLIC RECORD.

Each city license in the same form prescribed by KRS 243.440 for state licenses 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 City Administrator's office as part of the public record.

(Ord. passed 5-7-92)

§ 118.41 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL.

(A) *Conditions for dormancy.* Under the provisions of KRS, all administrative regulations promulgated pursuant to the provisions of KRS and this chapter, as 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 have his business interrupted by situations not under his control, various exceptions to this dormancy rule are included in subsection (B).

(B) *Surrender of license and exceptions.* 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 Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, 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 Administrator to the licensee, the licensee shall immediately notify the City Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City Administrator and a fee shall be due and payable to the City Administrator for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(C) *Applications based on pending construction of development.* Applications approved by the City Administrator 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 Administrator as he deems appropriate in exercise of his sound discretion based on facts and circumstances surrounding each request.

(D) *Renewals, time for filing.* All renewal of licenses and payment of the license fee must be on file with the City Administrator fifteen (15) days before the expiration of the licenses for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement fifteen (15) days prior to the expiration date of the license, setting forth the facts justifying an extension. The Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his 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.

(Ord. passed 5-7-92)

§ 118.42 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE.

(A) *State Law References.* 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 of licenses.

(B) *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 any delinquent taxes or fees due the city. 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. The City Administrator may, in his discretion, approve a license to sell after receiving from the City Treasurer, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Treasurer for taking care of 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) *Restrictions on Package Liquor License.* No retail package liquor license shall be issued for any premises unless the applicant certifies under oath that ninety (90) per cent 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 (90) per cent 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.* Appeals may be taken from decisions of the City Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

(Ord. passed 5-7-92)

Statutory reference:

Grounds for refusal of State License, see KRS 243.450

SALE OF ALCOHOLIC BEVERAGES

§ 118.60 LICENSES REQUIRED FOR SALE.

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverages, nor manufacture or transport any alcoholic or malt beverages in the city unless he shall first procure and have issued to him a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter those ordinances, statutes and regulations shall be hereinafter singularly and collectively referred to as the alcoholic beverage control law.

(Ord. passed 5-7-92) Penalty, see § 118.99

§ 118.61 HOURS OF SALE.

(A) *Retail Package Sales.* 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 11:00 p.m. on weekdays, but shall remain closed during the twenty-four (24) hours of a Sunday, Christmas and at any time when the polls are open or any special election is held in the precinct in which the license's business is located.

(B) *Retail Sale for Consumption on Licensed Premises.* Premises for which there had been granted a license for the 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 each weekday but shall be closed during the twenty-four (24) hours of each Sunday, Christmas and at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate department within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

(C) *Retail Sales of Malted Beverages.* Retail sales of malt beverages may be made between the hours of 8:00 a.m. and 12:00 midnight each weekday but no such sales shall be made during the twenty-four (24) hours of each Sunday, Christmas or during any time when the polls are open for an election in the precinct in 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 unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

(D) *Violations; Revocation or Suspension of Licenses.* Any licensee for sales of alcoholic beverages by the drink or package who remains open for business at any time except the hours permitted under this section shall be deemed guilty of a misdemeanor and shall be punished in accordance with the provisions of this chapter and his license shall be subject to revocation or suspension within the

discretion of the Alcoholic Beverage Control Administrator.

Penalty, see § 118.99

(E) *Control of Premises During Closing Hours.* During the closing hours, 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 his 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) *Wholesale Deliveries on Sundays Prohibited.* There shall be no delivery by wholesalers of alcoholic or malt beverages on Sunday.

(Ord. passed 5-7-92)

§ 118.62 HOURS OF SALE, EXCEPTIONS; REQUIREMENTS.

A premise that can demonstrate to the City Alcoholic Beverage Control Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than fifty percent (50%) of the total gross sales of the licensed restaurant for the annual license period 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.

(Ord. passed 5-7-92)

§ 118.63 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR.

If any alcoholic or malt 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 Alcoholic Beverage Control Act or by this chapter from selling alcoholic or malt beverages, a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license. In addition to other penalties provided for the violation of this chapter, the City Alcoholic Beverage Control Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

(Ord. passed 5-7-92)

§ 118.64 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 1/2) inches in size, setting forth the price at which he offers alcoholic beverages for sale.

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

(C) It shall be unlawful for any person, holding a license under this chapter to sell 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 connection with the sale of alcoholic beverages.

(D) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 or any regulation promulgated pursuant to KRS 244.130.

(Ord. passed 5-7-92; Am. Ord. 94-24, passed 10-17-94)

§ 118.65 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 prosecution 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 age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he 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) An habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Except as provided in § 3 above, anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or of a felony within the preceding twelve (12) months.

Penalty, see 118.99 (Ord. passed 5-7-92)

§ 118.66 MINORS NOT TO POSSESS OR PURCHASE ALCOHOLIC BEVERAGES NOR TO MISREPRESENT AGE; USE OF FRAUDULENT 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) (1) Except as herein provided, no person under twenty-one (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.

(2) No person holding any license for on-premises consumption of distilled spirits, wine or malt beverages, or any of his clerks, servants, agents or employees 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 premises for a temporary licensed event, including plays or bona fide concerts. In such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.

(3) Minors do not remain in barroom or dance area of restaurants. Minors not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the local 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 area provided for dancing. The term **RESTAURANT** for the purposes of this subsection means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a "restaurant" within the meaning of this chapter.

(4) The prohibitions set forth in subsections (1), (2) and (3) 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.

(5) Violation of this Section shall be a misdemeanor and, upon conviction result in the following penalties:

(a) For the first offense a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(b) For each subsequent offense a fine of up to five hundred dollars (\$500.00) or confinement in jail for up to one hundred twenty (120) days, or both.

(C) A licensee or any of his clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he:

(1) 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

(2) 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) (1) In the event a violation occurs under the provisions of this section 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 activity prohibited by the aforementioned sections occurred, may have his license suspended or revoked.

(2) In the event three or more violations under the provisions of this section occur at a business establishment within a twelve (12) month period, the City Administrator, 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, fraudulent, or altered identification card or paper or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(Ord. passed 5-7-92)

§ 118.67 LICENSEE TO DISPLAY NOTICE AS TO 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:

- (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.

(For example, see Appendix A)

(Ord. passed 5-7-92)

REGULATORY LICENSE FEE

§ 118.80 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 the 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 or fees imposed under the provisions of this chapter.

(Ord. passed 5-7-92)

(B) The regulatory license fee shall be three percent (3%) for the fiscal year beginning July 1, 1992 and continuing thereafter until amended or repealed.

(Ord. passed 6-15-92)

§ 118.81 PAYMENT

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

(Ord. passed 5-7-92)

§ 118.82 FAILURE TO PAY.

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

(Ord. passed 5-7-92)

§ 118.83 INTEREST ON LATE PAYMENTS.

Interest shall be assessed upon any past due payments at the rate of twelve percent (12%) per annum.

(Ord. passed 5-7-92)

§ 118.84 ADEQUATE RECORDKEEPING 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 City Alcoholic Beverage Control Administrator and approved by a majority of a quorum of the City Council. Where the sales of alcoholic beverages as they 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 City Alcoholic Beverage Control Administrator, the Director of Finance, or any authorized representatives.

(Ord. passed 5-7-92)

§ 118.85 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 City Alcoholic Beverage Control Administrator shall 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 of 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.

(Ord. passed 5-7-92)

§ 118.86 ADMINISTRATION.

Except as herein provided the regulatory license fee imposed shall be administered in accordance with the provisions of Chapter 110 of this code.

(Ord. passed 5-7-92)

§ 118.99 PENALTIES.

(A) Any person who violates any provision of this chapter for which no specific penalty is provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:

(1) For the first offense a fine not to exceed five hundred dollars (\$500.00);

(2) 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.

(B) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

Cross reference:

Penalty for violation of sale hours, § 118.61 (D)

Penalty for sale to minors, § 118.66

Penalty for nonpayment of regulatory fee, § 118.85

APPENDIX A: NOTICE TO MINORS; EXAMPLE OF TYPE

PERSONS UNDER THE AGE OF TWENTY-ONE (21) ARE SUBJECT TO A FINE 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.

(Ord. passed 5-7-92)

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CITY OF MADISONVILLE, KENTUCKY
ORDINANCE NO. 92 -

AN ORDINANCE AMENDING THE ORDINANCE RELATING TO THE CONTROL
OF ALCOHOLIC BEVERAGES IN THE CITY OF
MADISONVILLE, KENTUCKY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADISONVILLE,
KENTUCKY, AS FOLLOWS:

Section I A new section shall be added to Section 3.02 (License; Fees;
Requirements)

(A) (5) Special Private Club License, per annum -----\$300.00

Section II

(G) The City shall have the power and authority to issue a special 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 privilege of a 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 foregoing Ordinance was presented to the Council for the first reading on the 2 day of November, 1992 and for the second reading on the 17 day of November, 1992. Thereupon Motion was made by Councilmember Simmons and seconded by Councilmember Gill that the foregoing Ordinance be adopted.

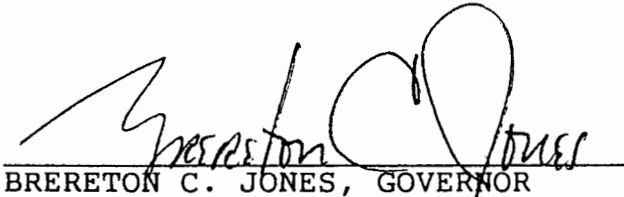
Upon rollcall, the Councilmembers voted as follows:

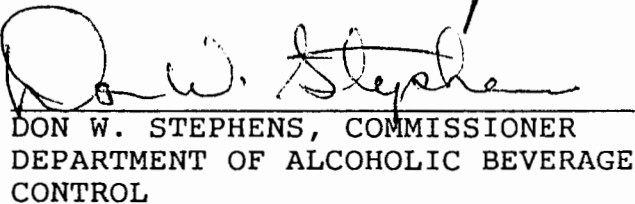
COUNCILMEMBER	YEA	NAY
James L. Gill, Jr.	✓	—
Rudy Stone	✓	—
Vickie Nance	absent-illness	—
D. W. Riley	✓	—
Philip Terry	✓	—
Bob Simmons	✓	—

STATEMENT OF EMERGENCY
REGULATION 804 KAR 9:040E

1. This emergency regulation amends 804 KAR 9:040 regarding special quotas for retail package liquor licenses. Madisonville, Kentucky, voted to repeal prohibition on March 10, 1992. It has been determined that the population of the City of Madisonville is sufficiently disproportionate to the population of Hopkins County to warrant a special retail package liquor license quota based upon the population of the city rather than the population of the county. Because certainty about the number of licenses to be issued is necessary and the license application process will commence before a regulation amendment would be effective, an emergency regulation is required.

2. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed with the Regulations Compiler concurrently with this emergency regulation on April 24, 1992.


BRERETON C. JONES, GOVERNOR


DON W. STEPHENS, COMMISSIONER
DEPARTMENT OF ALCOHOLIC BEVERAGE
CONTROL

FILED WITH LRC
TIME: <u>3pm</u>
APR 24 1992
<i>Susan C. Wunderlich</i> REGULATIONS COMPILER

ORDINANCE RELATING TO THE CONTROL OF ALCOHOLIC BEVERAGES IN
THE CITY OF MADISONVILLE, KENTUCKY

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COPY

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ORDINANCE RELATING TO THE CONTROL OF ALCOHOLIC BEVERAGES IN
THE CITY OF MADISONVILLE, KENTUCKY

BE IT ORDAINED BY THE CITY OF MADISONVILLE, KENTUCKY, AS FOLLOWS:

Section 1 - General Provisions

1.01 Short Title

This chapter shall be known and may be cited as the Alcoholic Beverage Ordinance of the City of Madisonville, Kentucky.

1.02 Incorporation of State Law; Compliance Required

- (A) The provisions of the State Alcoholic Beverage Control laws contained in 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, except as otherwise lawfully provided herein.
- (B) 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 chapter and all statutes and regulations of the state applicable thereto.

1.03 Scope; Nonexclusive Application

- (A) This chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such applications.
- (B) Nothing contained in this chapter 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 statutes of the state relating to violations pertaining to alcoholic beverages.

Section 2 - Alcoholic Beverage Control Administrator

2.01 Office

There shall be and hereby is created the office of City Alcoholic Beverage Administrator ("Administrator").

2.02 Appointment

The Administrator shall be appointed by and serve at the pleasure of the Mayor.

2.03 Compensation

The Administrator shall be paid such compensation as the Council shall from time to time provide.

2.04 Oath; Bond

Prior to entering upon the duties of the position, the Administrator shall take the oath prescribed in Section 228 of the Constitution of the Commonwealth and he shall execute a bond with a good corporate surety in the penal sum of not less than ONE THOUSAND AND 00/100 DOLLARS (\$1,000.00). Any city employee under the supervision of the Administrator shall execute a similar bond in such penal sum as the Administrator may deem necessary.

2.05 Regulations

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

2.06 Functions

The functions of the Administrator shall be the same with respect to the city license and regulations, as the function of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations, except that no regulation of the Administrator shall be less stringent than the statutes relating to alcoholic beverage control, or the regulations of the Board. No regulation of the Administrator shall become effective until it has been approved by the Board.

2.07 Police Power

The Administrator, and his Investigators, shall have the full police powers of peace officers, and their jurisdiction shall be co-extensive 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.

2.08 Right of Inspection

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

2.09 Authority

The Administrator 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 Administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

Section 3 - Licenses

3.01 Number of Licenses

The Number of retail package, retail drink, retail beer, wholesale beer distributors and wholesale distilled spirits distributors and wholesale distilled spirits distributors licenses issued in the City of Madisonville shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243 or 244 and all administrative regulations promulgated pursuant thereto, as may be amended from time to time.

3.02 Licenses; Fees; Requirements

(A) Distilled Spirits and Wine Licenses; Kinds; Fees

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

(1)	Wholesaler's license, per annum	-----	\$100
(2)	Retail Package license, per annum	-----	\$600
(3)	Special Temporary license, per month or part of a month	-----	\$100
(4)	Retail Drink license, per annum	-----	\$600

(B) Malt Beverage Licenses; Kinds; 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:

(1)	Distributor's license, per annum	-----	\$100
(2)	Retailer's license, per annum --		
	(a) New applicant	-----	\$200
	(b) Renewals	-----	\$200

- (C) (1) 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) persons at tables.
- (2) The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2) and 241.065.
- (3) 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 wholesalers.
- (4) The fee for a license hereunder, per annum, shall be \$200.
- (D) The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages by the drink for consumption on the premises. Such 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 100 persons or bona fide restaurants open to the general public having dining facilities for not less than 100 persons. The fee for a license hereunder, per annum, shall be \$600.00.
- (E) License fees in the amounts herein provided shall be charged for each location in which any person engages in any classification of business authorized under this section, and if more than one classification of business is conducted at any location, a license shall be charged for each of the privileges exercised.
- (F) This section shall not be construed to authorize city special Sunday sale retail drink licenses.

3.03 Duration

Applications for renewal of licenses required by this section shall be made for each fiscal year beginning the first day of July and extending through the last day of June of the succeeding year; applications for renewal are to be filed with the City Alcoholic Beverage Control Administrator fifteen (15) days prior to expiration.

3.04 Pro-ration; No Refund

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 him.

3.05 Assignment, Transfer, etc.

The assignment, transfer, pledge or hypothecation of City licenses shall be governed by the provisions of KRS 243.630, 243.650 and 243.660.

3.06 Location of Business Restricted

Licenses under this article shall not authorize the conduct of business in any place other than that specifically 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.

3.07 Disposition of Fees, Fines

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

3.08 Issuance of City License

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 hereunder.

Section 4 - General Licensing Regulations; Application, Issuance, Form, Dormant Licenses

4.01 Regulations Pursuant to Alcoholic Beverage Law

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverages, nor manufacture or transport the same in the City unless he shall first procure and have issued to him a license under the provisions of this Ordinance and all statutes of Kentucky and regulations adopted pursuant thereto which ordinances, statutes and regulations shall be hereinafter singularly and collectively referred to as the alcoholic beverage control law.

4.02 Application; Contents

An applicant for a license hereunder shall file with the City Alcoholic Beverage Control Administrator a copy of his 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 City Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, 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 City Administrator within thirty-six (36) hours.

4.03 Approval or Denial of Application

- (A) If upon review of the application, the City Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this Ordinance, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220, that a license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and that there are no other causes for denial of the license, the Administrator shall approve the application.
- (B) If the Administrator has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, he 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 Administrator 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.

4.04 Payment of Fees

Upon approval of the application by the City Administrator, the applicant shall pay 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 in deposit by the City pending state license approval and issuance of the City license by the City Administrator.

4.05 Posting of Licenses; Public Record

Each City license in the same form prescribed by KRS 243.440 for state licenses 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 City Administrator's office as part of the public record.

4.06 License to Become Void if Business Dormant; License Renewal

- (A) Conditions for dormancy. Because under the provisions of KRS, all administrative regulations promulgated pursuant thereto and this chapter, as may be amended from time to time, a quota system may exist for the number of licenses to sell alcoholic beverages in the City, it is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after 90 days. Because a licensee, like any other business, may have his business interrupted by situations not under his control, various exceptions to this dormancy rule are included herein.
- (B) Surrender of license and exceptions. 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 Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky 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 Administrator to the licensee, said licensee shall immediately notify the City Administrator of same. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City Administrator of same and a fee shall be due and payable to the City Administrator for the period such license was in dormancy in the same amount as set forth herein had the license remained active for the same period.

- (C) Applications based on pending construction or development. Applications approved by the City Administrator 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 Administrator as he deems appropriate in exercise of his sound discretion based on facts and circumstances surrounding each request.
- (D) Renewals, time for filing. All renewal of licenses with payment therefore must be on file with the City Administrator fifteen (15) days before the expiration of the licenses for the preceding license period or the license shall be cancelled, except that the licensee may file a written, verified statement fifteen (15) days prior to the expiration date of the license, setting forth the facts justifying an extension, and the Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his sound discretion. The above licensee shall pay the license fee from the expiration date of the former license or licenses. Said 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 5 - Causes For Refusal To Issue Or Renew License And For Suspension Or
Revocation Of License*

5.01 State Law References

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.

5.02 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; or shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The City Administrator may, in his discretion, approve a license to sell after receiving from the City Treasurer, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Treasurer for taking care of 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.

5.03 Restrictions on Package Liquor License

No retail package liquor license shall be issued for any premises unless the applicant certifies under oath that ninety (90) per cent 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; and, no such license shall be renewed for any premises unless ninety (90) per cent 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.

5.04 Appeals

Appeals may be taken from decisions of the City Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

* State law reference: Grounds for refusal of State license, KRS 243.450

Section 6 - Hours of Sale

6.01 Retail Package Sales

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 11:00 p.m. on weekdays, but shall remain closed during the twenty-four (24) hours of a Sunday, Christmas and at any time when the polls are open or any special election is held in the precinct in which the licensee's business is located.

6.02 Retail Sale for Consumption on Licensed Premises

Premises for which there has been granted a license for the 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 each weekday but shall be closed during the twenty-four (24) hours of each Sunday, Christmas and at any time when the polls are open for any election in the precinct in which the license is granted; provided however, that if the licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages and malt beverages and said department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

6.03 Retail Sales of Malted Beverages

Retail sales of malt beverages may be made between the hours of 8:00 A.M. and 12:00 midnight each weekday but no such sales shall be made during the twenty-four (24) hours of each Sunday, Christmas or during any time when the polls are open for an election in the precinct in 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 unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

6.04 Violations; Revocation or Suspension of Licenses

Any licensee for sales of alcoholic beverages by the drink or package who remains open for business at any time except the hours permitted under this section shall be deemed guilty of a misdemeanor and shall be punished in accordance with the provisions of this Ordinance and his license shall be subject to revocation or suspension within the discretion of the Alcoholic Beverage Control Administrator.

6.05 Control of Premises During Closing Hours

During the closing hours, 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 his 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 thereon. The said premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purposes.

6.06 Wholesale Deliveries on Sundays Prohibited

There shall be no delivery by wholesalers of alcoholic or malt beverages on Sunday.

Section 7 - Prohibitions, Restrictions and Regulations

7.01 State Law

All prohibitions, restrictions and regulations pertaining to alcoholic beverages found at KRS 244.010--244.600 shall apply to alcoholic beverage use in the City of Madisonville.

7.02 Exception for Restaurant Hours of Sale, Requirement

A premise that can demonstrate to the City Alcoholic Beverage Control Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than fifty percent (50%) of the total gross sales of the licensee restaurant for the annual license period 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, provided however, that all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.

7.03 Violation, Penalty, Confiscation

If any alcoholic or malt 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 Alcoholic Beverage Control Act or by this Ordinance from selling alcoholic or malt beverages, a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be grounds for revocation or suspension of the license; and in addition to other penalties provided for the violation of this Ordinance, the City Alcoholic Beverage Control Administrator is hereby authorized to confiscate such alcoholic or malt beverages.

7.04 Restrictions on Advertising

- (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 said 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 1/2) inches in size, setting forth the price at which he offers alcoholic beverages for sale.
- (B) No flashing lights shall be used to illuminate the exterior of any premises licensed hereunder.

- (C) It shall be unlawful for a licensee under this Ordinance to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.
- (D) It shall be unlawful for any person, holding a license under this chapter to sell 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 connection with the sale of alcoholic beverages.
- (E) Any advertising by any licensee under this Ordinance shall be in compliance with KRS 244.130 or any regulation promulgated pursuant thereto.

7.05 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:

(1) A minor, except that in any prosecution 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 age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. Such evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(2) A person actually or apparently under the influence of alcoholic beverages.

(3) An habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(4) Except as provided in Section 3 above, anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or of a felony within the preceding twelve (12) months.

7.06 Minors Not To Possess Or Purchase Alcoholic Beverages Nor To Misrepresent Age; Use Of Fraudulent 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) (1) 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.

(2) No person holding any license for on-premises consumption of distilled spirits, wine or malt beverages, or any of his clerks, servants, agents or employees 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 premises for a temporary licensed event, including plays or bona fide concerts; in such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.

(3) Minors do not remain in barroom or dance area of restaurants. Minors not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the local 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 area provided for dancing. The term "restaurant" for the purpose of this subsection means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a "restaurant" within the meaning of this Ordinance.

(4) The prohibitions set forth in subsections (1), (2) and (3) 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.

(5) Violation of this Section shall, upon conviction result in the following penalties:

(a) For the first offense a fine of not less than One Hundred and 00/100 Dollars (\$100.00) nor more than Five Hundred and 00/100 Dollars (\$500.00).

(b) For each subsequent offense a fine of up to Five Hundred and 00/100 Dollars (\$500.00) or confinement in jail for up to one hundred twenty (120) days, or both.

(C) A licensee or any of his clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he:

(1) 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

- (2) 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) (1) In the event a violation hereunder occurs, the City Administrator 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 activity prohibited by the aforementioned sections occurred, may have his license suspended or revoked.
- (2) In the event three or more violations hereunder occur at a business establishment within a twelve (12) month period, the City Administrator, 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, fraudulent, or altered identification card or paper or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

7.07 Licensee To Display Notice As To 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 (example attached) or larger type, substantially as follows:

Persons under the age of twenty-one (21) are subject to a fine up to One Hundred and 001/00 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.

7.08 Sale of Chilled or Cold Beer

No person holding a City Malt Beverage License issued hereunder shall sell or serve any chilled or cold beer unless such person shall hold such license for premises which contain a bona fide restaurant which has a minimum seating capacity for fifty (50) persons at tables. This prohibition shall not apply to any product which requires continuous and uninterrupted refrigeration to preserve its product integrity or to keg beer which shall be deemed to be any original container holding more than two and one-half (2 1/2) gallons of malt beverage.

PERSONS UNDER THE AGE OF TWENTY-ONE (21) ARE SUBJECT TO A FINE UP TO ONE HUNDRED DOLLARS IF THEY:

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

Section 8 - Regulatory Licensee Fee

8.01 Regulatory License Imposed

A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued hereunder 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 the budget adoption for the fiscal year, such 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 or consumption of alcoholic beverages in the City. Such regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against such fee shall be allowed in an amount equal to the licenses or fees imposed hereunder.

8.02 Payment

Payment of such fee shall accompany the tax returns approved for such use by the Director of Finance and a majority of a quorum of the City Council and shall be submitted to the Director of Finance by the twentieth (20th) day of each month for the preceding month's sales. The fraction, represented by one divided by the number of months for which the City license was issued, of the fee required hereunder shall be deducted each month as a credit.

8.03 Failure To Pay

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

8.04 Interest

Interest shall run upon any past due payments at the rate of twelve (12) percent per annum.

8.05 Adequate Recordkeeping

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 City Alcoholic Beverage Control Administrator and approved by a majority of a quorum of the City Council. Where the sales of alcoholic beverages as they 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. Such books and records shall be available at all reasonable times for inspection by the City Alcoholic Beverage Control Administrator, the Director of Finance, or any authorized representatives.

8.06 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 and 00/100 Dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of One Hundred and 00/100 Dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of Two Hundred and 00/100 Dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, the City Alcoholic Beverage Control Administrator shall 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 of 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.

8.07 Administration

Except as herein provided the regulatory license fee herein imposed shall be administered in accordance with the provisions of Chapter 110 of the Code of Ordinances.

Section 9 - Penalties

9.01 Penalties

Any person who violates any provision of this Ordinance for which no specific penalty is provided shall, in addition to other penalties provided by law, be subject to the following penalties:

- (1) For the first offense a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00);
- (2) For any subsequent offense a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00) or confinement in jail not more than six (6) months, or both.

9.02 Suspension of License; Payments In Lieu of Suspension; Appeal

Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

The foregoing Ordinance is read to and presented to a regular meeting of the City Council of Madisonville, Kentucky, for first reading on the 4th day of May, 1992, and the second reading on the 7th day of May, 1992. Motion was made by Councilmember Gill, seconded by Councilmember Simmons, that the Ordinance be adopted as the law of the City of Madisonville, Kentucky, to be effective immediately upon publication, as required by law.

Upon vote being taken thereon, the votes were cast as follows:

COUNCILMEMBER	YEA	NAY
James L. Gill, Jr.	<u>XX</u>	_____
Rudy Stone	<u>XX</u>	_____
Vickie Nance	<u>XX</u>	_____
D. W. Riley	<u>XX</u>	_____
Philip Terry	_____	<u>XX</u>
Bob Simmons	<u>XX</u>	_____

It appearing that five (5) Councilmember(s) voted for the Motion and one (1) Councilmember voted against it, the Mayor announced that the Motion was Approved and that the above Ordinance would be published as required by law and would be effective as a New Ordinance of the City of Madisonville, Kentucky, immediately upon publication thereof, unless otherwise stated.

Dated this the 7th day of May, 1992.

/s/ William M. Cox

 William M. Cox, Mayor
 City of Madisonville, Kentucky

ATTEST:

/s/ Gina Munger

 Gina Munger, City Clerk/Treasurer
 City of Madisonville, Kentucky

PUBLIC PROTECTION AND REGULATION CABINET
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
(REGULATION AMENDMENT)

804 KAR 9:040.E Retail package Liquor license quota.

RELATES TO: KRS 241.060, 241.065, 241.075, 243.030

STATUTORY AUTHORITY: KRS 241.060

NECESSITY AND FUNCTION: The express provisions of KRS 241.060(2) enable the Alcoholic Beverage Control Board to limit the number of licenses to be issued in any political subdivision of the state and permit the board to make reasonable division and subdivisions of the state or any political subdivision into districts for this purpose. 804 KAR 9:010 establishes a general retail liquor license quota based upon county population for any area within that county in which prohibition has been repealed. Instances may arise, however, in which the quota based on county population permits the issuance of retail liquor licenses in a number totally disproportionate to the population of the area in said county in which prohibition has been repealed. It is, therefore, necessary for the board to establish individual quotas when such a situation as above described arises.

Section 1. The Alcoholic Beverage Control Board may, for good reason shown, adopt by regulation, retail liquor license quotas for political subdivisions less than a county where the county quota established by 804 KAR 9:010

would be excessively disproportionate to that based upon the population of the smaller political subdivisions. In such instances, the quota set in Sections 1 and 2 of 804 KAR 9:010 shall be inapplicable. The quota exceptions contained in Section 2 of 804 KAR 9:010 shall remain in effect and be incorporated herein.

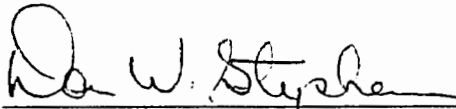
Section 2. Pursuant to the authority herein, the City of Pikeville, having voted to repeal prohibition on April 12, 1983, the actual resident population of the City of Pikeville being 4,756, and the resident population of Pike County being 81,123 according to the 1980 census, it is determined that the retail package liquor license quota established according to 804 KAR 9:010 would create a permissible number of retail package liquor licenses excessively disproportionate to the population of the City of Pikeville, the retail package liquor license quota for the City of Pikeville, Kentucky, is therefore set at thirteen (13).

Section 3. Pursuant to the authority herein, the City of Madisonville, having voted to repeal prohibition on March 10, 1992, the actual resident population of the City of Madisonville being 16,200, and the resident population of Hopkins County being 45,964 according to the 1992 population projections of the Urban Studies Center of the University of Louisville, it is determined that the retail package liquor license quota established according to 804 KAR 9:010 would create a permissible number of retail package liquor licenses excessively disproportionate to the

population of the City of Madisonville, the retail package
liquor license quota for the City of Madisonville,
Kentucky, is therefore set at seven (7).

APPROVED:

4.23.92




DON W. STEPHENS
Commissioner
Department of Alcoholic Beverage
Control



ED HOLMES
Secretary
Cabinet for Public Protection and
Regulation

APPROVED AS TO FORM
AND LEGALITY:



CATHERINE C. STAIB
General Counsel
Department of Alcoholic Beverage
Control

A public hearing on the above proposed regulation amendment will be held on Tuesday, June 23, 1992, at 2:00 p.m., EDT, in the Hearing Room of the Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky. Unless requests for a public hearing are received, in writing, five (5) working days before the hearing date, the public hearing will be cancelled. Those who may be interested in attending, please contact:

Toni Sanderson
Secretary to the Board
Alcoholic Beverage Control Board
123 Walnut
Frankfort, Kentucky 40601