

ORDINANCE 24-16

AN ORDINANCE OF THE CITY OF MAYFIELD, KENTUCKY, ADOPTING WITH AMENDMENTS FOUND HEREIN, THE FOLLOWING SET OF REGULATIONS AND REQUIREMENTS FOR ALCOHOL BEVERAGE CONTROL, HEREIN AFTER TO BE KNOWN AS THE CITY OF MAYFIELD "ALCOHOLIC BEVERAGE CONTROL ORDINANCE"; AND FURTHER ADOPTING ALL APPLICABLE AND REQUIRED KRS, INCLUDING BUT NOT LIMITED TO, KRS CHAPTERS 241 THROUGH 244 AS RECENTLY UPDATED BY THE GENERAL ASSEMBLY AND ADMINISTRATIVE AGENCIES; AND

WHEREAS, the City of Mayfield, by and through a majority of registered voters, permits the presence of alcohol, manufacturing of alcohol, and sales of alcohol within the corporate limits of the city of Mayfield so long as such is done in accordance with all applicable local, state and federal law, and

WHEREAS, the City of Mayfield therefore has established uniform regulations and requirements for the licensing and regulation of alcoholic beverages, manufacturing and sales pursuant to authorization under KRS Chapters 241 through 244, and all other applicable law.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAYFIELD THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

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DIVISION 1. GENERALLY

Sec. 9-63 [Short] Title and Purpose.

This ~~[article] chapter~~ shall be known and ~~may be cited~~ as the “Alcoholic Beverage Control Ordinance” of the City of Mayfield, Kentucky (city).

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

Sec. 9-64 Definitions.

~~[As used in this article, unless the context clearly indicates or requires a different meaning, the words and terms defined in KRS241.010, as amended in Senate Bill 13, shall apply, which shall include the definition of “caterer.” (Ord. No. 23-03, 1-12-04; Ord. No. 11-04, paragraph 1, 9-13-04; Ord. No. 10-13, paragraph 1, 12-9-13)]~~

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

Sec. 9.65 [Incorporation of state law.] Scope.

~~[(a) — The provisions of the state alcoholic beverage control laws contained in KRS chapters 241, 242, 243, and 244, as amended in Senate Bill 13, 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 article and all statutes and regulations of the state applicable thereto. Penalty, see section 9-109. (Ord. No. 23-03, 1-12-04; Ord. No. 10-13, Paragraph 2, 12-0-13).]~~

This chapter shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this chapter shall excuse or relieve the licensee, or the owner, proprietor, employee, agent or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance or ordinances of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.

Sec. 9-66 [Scope of Coverage.] Adoption.

~~[(a) This article 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 article 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 of the city or of any other statutes of the state relating to violations pertaining to alcoholic beverages. (Ord. No. 23-03, 1-12-04).]~~

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

Sec. 9-67-9.74 Reserved.

DIVISION 2. [Administration and Control] LICENSE REQUIREMENTS.

~~[Sec. 9-67. — Alcoholic beverage control administrator.]~~

~~[The duties of the city alcoholic beverage control (ABC) administrator shall be assigned to the office of the mayor who shall have the power to designate additional city officials to assist in the responsibilities of the office. The local ABC administrator and/or his designee shall have the power and authority to promulgate such regulations as may be necessary to implement this article. (Ord. No. 23-03, 1-12-04)]~~

~~[Sec. 9-68. — Oath and bond of local ABC administrator and employees.]~~

- ~~(a) [Each ABC administrator before entering upon his duties as such, shall take the oath prescribed in section 228 of the Constitution and shall execute a bond with a good corporate surety in the amount of not less than \$1,000.00.~~
- ~~(b) Each ABC administrator may require any city employee under his supervision to execute a similar bond in such amount, as he deems necessary. (Ord. No. 23-03, 1-12-04).]~~

~~[Sec. 9-69. — Functions, duties and powers.]~~

~~[(a) The functions of the city ABC administrator shall be the same with respect to the city license and regulations, as the functions of the Kentucky Alcoholic Beverage Control Board (“board”) with respect to state licenses and regulations, as provided in KRS 241.060, except that no regulation of the ABC administrator shall be less stringent than the statutes relating to alcoholic beverage control, or the regulations of the board. No regulation of the ABC administrator shall become effective until approved by the board.]~~

~~[(b) The ABC 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 241.070. The ABC administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this article. (Ord. No. 23-03, 1-12-04)]~~

~~{Sec. 9 70. — Police power.}~~

~~[The city ABC administrator and his designee shall have the full police powers of law enforcement officers and their jurisdiction shall be coextensive with the boundaries of the city. They, along with any City of Mayfield law enforcement officer, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked, without first obtaining a search warrant. City law enforcement officers shall have full police powers while performing any such inspections. (Ord. No. 23 03, 1 12 04).]~~

~~{Sec. 9 71. — Right of inspection.}~~

~~[The city ABC administrator, his designee and City of Mayfield law enforcement officers shall have available at all reasonable times for their inspection all books and records required to be maintained by licensees under KRS 244.150 and the city ABC administrator shall receive copies of all reports submitted by licensee to the state alcoholic beverage control board. (Ord. No. 23 03, 1 12 04).]~~

~~{Sec. 9 72. — Appeals from city ABC administrator.}~~

~~[Appeals from the order of the city ABC administrator may be taken to the state alcoholic beverage control board by filing with the board, within 30 days, a certified copy of the orders of the city ABC administrator. The board shall hear matters at issue as upon an original proceeding. (Ord. No. 23 03, 1 12 04).]~~

Sec. 9-75 City Licenses.

For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in KRS 243.070. The fee for each city license shall be as set out in the following schedule. In the event KRS 243.070 shall hereafter be amended to authorize additional city licenses, the fee for each city license shall be the maximum fee provided in the statute as amended.

Sec. 9-76 City Licenses/Fees

- (1) Only those licenses set out in this section shall be issued. The license fees are subject to the provisions of subsections (16), (17), and (18) of this section and shall not exceed the amounts specified in subsections (2) to (15) of this section.
- (2) Distiller's license:
 - a. Class A, per annum.....\$3,090.00
 - b. Class B (craft distillery), per annum.....\$1,000.00
- (3) Rectifier's license
 - a. Class A, per annum\$ 2,580.00
 - b. Class B (craft rectifier), per annum\$ 825.00
- (4) Winery license, per annum\$1,030.00
- (5) Small farm winery license, per annum\$ 110.00

- a. Small farm winery off-premises retail license, per annum\$ 30.00
- (6) Wholesaler's license, per annum\$2,060.00
- (7) Quota retail package license, per annum\$ 570.00
- (8) Quota retail drink license, per annum\$ 620.00
- (9) Transporter's license, per annum\$ 210.00
- (10) Special nonbeverage alcohol license, per annum\$ 60.00
- (11) Special agent's or solicitor's license, per annum\$ 30.00
- (12) Bottling house or bottling house storage license, per annum\$1,030.00
- (13) Special temporary license, per event.....\$ 90.00
- (14) Special Sunday retail drink license, per annum\$ 520.00
- (15) Caterer's license, per annum\$ 830.00
- (16) Special temporary alcoholic beverage auction license, per event\$ 110.00
- (17) Extended hours supplemental license, per annum\$2,060.00
- (18) Hotel in-room license, per annum\$ 210.00
- (19) Air transporter license, per annum\$ 520.00
- (20) Sampling license, per annum\$ 110.00
- (21) Replacement or duplicate license\$ 25.00
- (22) Entertainment destination license, per annum\$7,730.00
- (23) Limited restaurant license, per annum\$ 780.00
- (24) Limited golf course license, per annum\$ 720.00
- (25) Small farm winery wholesaler's license, per annum\$ 110.00
- (26) Qualified historic site license (Includes distilled spirits, wine, and malt beverages by the drink), per annum\$1,030.00
- (27) Nonquota type 1 license, per annum\$4,120.00
- (28) Nonquota type 2 license, per annum\$ 830.00
- (29) Nonquota type 3&4 license, per annum\$ 310.00
- (30) Distilled spirits and wine storage license, per annum\$ 620.00
- (31) Out-of-state distilled spirits and wine supplier's license, per annum.....\$1,550.00
- (32) Limited out-of-state distilled spirits and wine supplier's license, per annum ...\$ 260.00
- (33) Micro out-of-state distilled spirits and wine supplier's license, per annum\$ 10.00
- (34) Authorized public consumption license, per annum\$ 250.00
- (35) A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS 243.045
- (36) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In establishing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.
- (37) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary retail drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (4), (8), (9), (10), (12), (15), (19), and (20)

of this section. The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

Sec. 9-77 Certain special licenses defined

(Please note: The following is an updated/amended explanation and description of license types consistent with amendments made to KRS 243.070, which took effect June 25, 2013, and became enforceable thereafter via timetables set by the state ABC Administrative Office.)

(a) Limited Restaurant License

A Limited Restaurant License may be issued pursuant to KRS Chapter 243, if said restaurant meets the definition of a "Limited Restaurant" as set forth in KRS 241.010 (31) it is a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, and which maintains seating capacity of either one hundred (100) or fifty (50) persons for dining. If the limited restaurant only maintains seating capacity for fifty (50) persons, it shall not have open bar and all alcoholic beverages shall be sold in conjunction with the sale of a meal. Distilled spirits, wine, and malt beverages shall be deemed to be purchased in conjunction with a meal if the distilled spirits, wine, and malt beverages are served after the meal is ordered and no more than one-half (1/2) hour after the meal is completed.

(b) Limited Golf Course License

A Limited Golf Course License may be issued pursuant to KRS Chapter 243 if an establishment meets the following conditions: a golf course with nine (9), or eighteen (18) holes that meets United States Golf Association criteria as a regulation golf course. A Limited Golf Course License shall authorize the license to purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises.

(c) Non-quota Type 1 Retail Drink License

A Non-quota Retail Drink License may be issued to the following pursuant to and defined by KRS: a Convention Center or a Convention Hotel Complex; a Horse Racetrack; an Automobile Racetrack; a Railroad System; a Commercial Airlines System or Charter Flight System.

(d) Non-quota Type 2 Retail Drink License

A Non-quota Retail Drink License may be issued pursuant to and as defined in KRS for the following: a Hotel that contains at least fifty (50) sleeping units, contains dining facilities for at least one hundred (100) persons, and receives from its total food and beverage sales at least fifty percent (50%) of its gross receipts from the sale of food; a Restaurant with a minimum seating for fifty (50) consumers at tables; an Airport; or a Riverboat.

(Please note: A Restaurant holding a Non-quota Type 2 Retail Drink License which has seating for more than fifty (50), but less than one hundred (100), consumers at tables may only purchase, receive, possess and sell wine and malt beverages at retail by the drink for consumption on the licensed premises.

(e) Non-quota Type 3 Retail Drink License

A Non-quota Type 3 Retail Drink License may be issued pursuant to and defined by KRS to the following: a Private Club in existence for longer than one (1) year prior to the license application; a Dining Car.

(Please Note: A Non-quota Type 3 Retail Drink License issued to a Private Club shall authorize the licensee to exercise the privileges of a Non-quota Type 2 Retail Drink License at the designated premises if the general public is excluded.)

(f) Non-quota Type 4 Retail Malt Beverage Drink License

A Non-quota Type 4 Retail Malt Beverage Drink License may be issued pursuant to and as defined in KRS to the following: a holder of a quota retail drink license; a holder of a microbrewery license; a holder of a small farm winery license; and any other business wishing to sell malt beverages by the drink for consumption on the premises only. A Non-quota Retail Malt Beverage Drink License shall not be issued to any premises from which gasoline and lubricating oil are sold, or from which the servicing and repair of motor vehicles is conducted, *unless* there is maintained in inventory for sale on the premises at retail not less than five thousand dollars (\$5,000) of food, groceries, and related products valued at cost.

(g) **Special Temporary licenses.** A special temporary license may be issued only as set out in KRS. 243.260. Such a license may be issued to any regularly organized Fair, Exposition, Racing Association, or other party all as defined in applicable KRS. This license shall authorize the licensee to exercise the privileges of a quota retail drink license *and* an NQ4 retail malt beverage licensee at designated premises for a specified and limited time, not to exceed thirty (30) days, and shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink licensee or an NQ4 retail malt beverage drink license shall apply also to a special temporary licensee as described in this section.

A nonprofit organization holding an NQ4 retail malt beverage drink license may be issued a special temporary license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days. The temporary license may be issued in conjunction with any public or private event, including but not limited to weddings, receptions, reunions, or similar occasions.

Special license required for Sunday sales. No licensee shall offer alcoholic beverages for sale at any time between 12:00 midnight on Sunday and 6:00a.m. on Monday unless the licensee shall have obtained a special license for Sunday sales.

The ABC Administrator shall only issue one Special Temporary License per event. All sales are required to be served in colored plastic or Styrofoam container, other than original.

Sec. 9-78 Expiration of license; Proration of fees.

- (a) All city licenses, except special temporary licenses, shall be valid for a period of no more than a year and shall begin and end on the dates specified by the Department of Alcoholic Beverage Control Administrative Regulations for the City of Mayfield. When any person applies for a new license authorized by KRS Chapter 241 to 244 and CDO Chapter 2.5 he or she shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.
- (b) The renewal by the City of Mayfield of the certificate or permit of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.

Sec. 9-79 Payment of license fees; Delinquency.

No licensee shall enter into or begin operating any business for which a license is required by this chapter until the license fee has been paid in full. The fee for renewal of any license shall be paid with the renewal application. Failure to pay any license fee within ten (10) days after it becomes due shall result in a penalty equal to ten percent (10%) of the license fee. Any licensee failing to pay the fees, including penalties, within ten (10) days after such fees are due may be subject to revocation of the license and to other penalties as provided in this chapter.

Sec. 9-80 Refund of fees.

- (a) Should any licensee under this chapter be prohibited from conducting the licensed business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth with reference to alcoholic beverages or other cause outside licensee's control, then the city shall refund to licensee the proportionate part of the license fee for the period during which licensee is prevented from carrying on said business if the licensee provides sufficient proof to the City ABC Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee, or agent or employee of the licensee.

- (b) In the event a violation of this chapter occurs that results in the suspension or revocation of the license, the city shall not be required to refund any portion of the license fee.

Sec. 9-81 Regulatory license fee.

- (a) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. As of the time of adoption of this chapter, the regulatory license fee shall be five percent (5%) of gross sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and wine, the regulatory license fee shall be five percent (5%) of gross sales. The regulatory license fee shall be five percent (5%) on gross retail sales of package malt beverages. Thereafter, the City Council shall adopt at the budget adoption for each subsequent fiscal year, such annual rate for the regulatory license fee as shall be reasonably estimated to ensure full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expense related to the sale of alcoholic beverages in the city. Should the city fail to address the regulatory license fee in any budget, then the regulatory license fee shall remain at the level at which it was last fixed until such time as the City Council shall adjust the fee.
- (b) Payment of such regulatory fee shall be remitted to the City ABC Administrator, and shall be held in a separate account maintained for the purpose of fully reimbursing the city for the estimated cost of any additional policing, regulatory or administrative expense related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, except that a credit against a regulatory license fee in the city shall be allowed in an amount equal to any license fee imposed by the city pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the tax return approved for such use by the City Council. The return and payment are due no later than by the twentieth day of the month ~~end of the month~~ immediately following the end of each calendar quarter.
- (c) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension or revocation.
- (d) Penalty for failure to file a return and pay quarterly remittance by the due date is five percent (5%) of the tax for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax; provided, however, that in no case shall be penalty be less than ten dollars (\$10.00).
- (e) Interest at the rate of eight percent (8%) per annum will apply to any late payments.

Sec. 9-82 Disposition of fees.

The City ABC Administrator shall transmit fees upon collection to the City Clerk's Office to be deposited into the appropriate designated account.

Sec. 9-83-9.90 Reserved

DIVISION 3. [~~License and Taxes~~] OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

[~~Sec. 9 73. — License required for sale.~~]

[~~No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverage, 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 article and all statutes of Kentucky and regulations adopted pursuant to this article. (Ord. No. 23 03, 1 12 04)~~]

[~~Sec. 9 74. — Types of license; fees.~~]

[~~(a) — Limited restaurant by the drink license. The city shall have the power and authority to issue licenses for the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of 100 persons inside the building and derive a minimum of 70 percent of their annual gross receipts from the sale of food. The fee for this city license will be \$1,000.00 per year.~~]

[~~(b) — Caterers licenses. The city shall have the power and authority to issue license for the sale of alcoholic beverages by caterers which derive a minimum of 70 percent of their gross annual receipts from the sale of foods. The caterer shall also be required to maintain records in the same manner as all other retail licensees as set out in this article and the applicable Kentucky Revised Statutes. A caterers license may be issued as follows: As a primary license with a city license fee of \$1,000.00 per year.~~]

[~~(c) — The city license fee for the sale of alcoholic beverages during extended hours will be \$0.00 per year.~~]

[~~(d) — The city license fee for the sale of alcoholic beverages on Sunday will be \$0.00 per year. (Ord. No. 23 03, 1 12 04; Ord. No. 11 04, paragraph 2, 9 13 04)~~]

[~~Sec. 9 75. — Date licenses expire; proration.~~]

[~~All licenses issued by the city shall be valid for a period of no more than one year. All licenses shall expire on January 31 of each year. Applications for renewal are to be filed with the city at least 15 days prior to expiration. When any person applies for a new license he shall be charged the full fee for the respective license if six months or more remain before the license is due to be renewed and one half the fee if less than six months remain before the license is due to be renewed. In the event any licensee shall cease doing business for any reason, no refund of the city license fee shall be granted. (Ord. No. 23 03, 1 12 04; Ord. No. 10 13, Paragraph 3, 12 9 13)~~]

[~~Sec. 9 76. — Persons who may not be licensed.~~]

[~~A person shall not become a licensee under this article for any of the reasons stated in KRS 243.100 (Ord. No. 23 03, 1 12 04)~~]

[~~Sec. 9 77. — Premises that may not be licensed for sales at retail.~~]

~~[No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease or a permit for a term of not less than the license period. (Ord. No. 23-03, 1-12-04)]~~

~~[Sec. 9-78. — Businesses authorized by retail drink license.]~~

~~[A limited restaurant alcoholic beverage by the drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers. A licensee may purchase wine in containers not smaller than 100 milliliters if the wine does not exceed 14 percent alcohol by volume. A licensee may buy mixed drinks in containers of a capacity not smaller than 355 milliliters if the mixed drinks contain a substantial proportion of carbonated water. A retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package. (Ord. No. 23-03, 1-12-04)]~~

~~[Sec. 9-79. — Public notice of intent to apply for license.]~~

~~[Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for a supplemental bar license shall before applying for a license advertise, by publication in The Mayfield Messenger, his or her intention to apply for a license as stipulated in KRS 243.360 as amended effective June 25, 2013. (Ord. No. 23-03, 1-12-04; Ord. No. 10-13, Paragraph 4, 12-9-13.)]~~

~~[Sec. 9-80. — Local administrator to first approve application.]~~

~~[An applicant for an alcoholic beverage license must have his city license approved by the city alcoholic beverage control administrator before they are eligible to apply for a state license. (Ord. No. 23-03, 1-12-04)]~~

~~[Sec. 9-81. — Application for state license.]~~

~~[All applicants for alcoholic beverage licenses must submit an application to the state as stipulated in KRS 243.380 as amended effective June 25, 2013. (Ord. No. 23-03, 1-12-04; Ord. No. 10-13, paragraph 5, 12-9-13)]~~

~~[Sec. 9-82. — Submittal of application.]~~

~~[An applicant for license under this article shall file with the city alcoholic beverage control administrator a copy of his state license application containing the information required by KRS 243.380 as amended effective June 25, 2013 and KRS 243.390. The city application shall include the consent of the applicant permits the city ABVC 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 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 ABC administrator within 36 hours. (Ord No. 23-03, 1-12-04; Ord. No. 10-13, paragraph 6, 12-9-13.)~~

~~{Sec. 9-83. — 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 243.45, KRS 243.490, KRS 243.500, as well as violation of any city ordinance regarding 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 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 to 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 ABVC administrator may, in his discretion, approve a license to sell after receiving from the city clerk, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the city clerk 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) — Appeals. Appeals may be taken from decisions of the city ABC administrator to the state alcoholic beverage control board according to the provisions of KRS 241.200 as amended effective June 25, 2013 and KRS 243.550.~~

~~(d) Failure to meet seating standards. — A cause for refusal to issue or renew a license and for suspension or revocation of a city license shall occur if the licensee ceases either to provide a minimum of 100 seats or derive a minimum of 70 percent of their annual gross receipts from the sale of food. (Ord No. 23-03, 1-12-04; Ord. No. 10-13, paragraph 7, 12-9-13)}~~

~~{Sec. 9-84. — Approval or denial of application.}~~

~~{(a) — If upon review of the application, the city ABC administrator determines that the applicant has complied with all requirements of the alcoholic beverage control law, as well as all regulatory provisions of this article, 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 rules fixed by the state alcoholic beverage control board, and that there are no causes for denial of the license, the city ABC administrator shall approve the license.}~~

~~(b) — If the city ABC 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 for the such violation and requiring the applicant to show cause why the requested license should be issued. The city ABC administrator shall have the right to order, and the applicant shall have the right to requires, an evidentiary hearing to examine the violation set forth in the show cause order issued by the city ACV administrator. Any decision by the city AB administrator on the application shall be subject to appeal as provided by law. (Ord. No. 23-03, 1-12-04; Ord. No. 1-13, paragraph 8, 12-0-13)}~~

~~{Sec. 9 85. — Payment of fees, refund of fee.}~~

- ~~(a) [Upon approval of the application by the city ABC administrator, the applicant shall pay the amount of the license fee provided in this article 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 ABC administrator.]~~
- ~~(b) If the payment of a license fee was erroneously made or the licenses are not issued, the city shall authorize the payment of the refundable amount. (Ord No. 23 03, 1 12 04)}~~

~~{Sec. 9 86. — Issuance of city licenses.}~~

~~{The city licenses shall be issued and the fees collected by the city clerk. No license shall be issued by the clerk without the approval of the city ABC administrator. The license shall be in a form of a standard city business license and a business license category shall hereby be established as “Limited Restaurant Alcoholic by the Drink license” or “Caterers’ Limited Alcoholic Beverage by the Drink License.” The fees shall be those established in section 9 106 of this article and shall not replace the standard business license fees required in Ordinance No. 10 94 (sections 9 40 — 9 62 of this chapter) (Ord No. 23 03, 1 12 04; Ord. No. 11 04, paragraph 3, 9 13 04)}~~

~~{Sec. 9 87. — Posting of licenses.}~~

~~{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 clerk’s office as part of the public record. (Ord. No. 23 93, 1 12 04)}~~

~~{Sec. 9 88. — Transfer, assign or acquire existing license.}~~

~~{The transfer, assigning or acquisition of a city license shall be the same as provided for in state licenses in KRS 243.630, KRS 243.650, and KRS 243.660. (Ord. No. 23 03, 1 12 04)}~~

~~{Sec. 9 89. — Applicant to pay for own license.}~~

~~{The license fee for a city license shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued under these sections. (Ord No. 23 03, 1 12 04)}~~

~~{Sec. 9 90. — Deposit of fees.}~~

~~{All monies derived from license fees or from fines as provided in this article shall be paid to the treasury of the city and become a part of the general funds of the city. (Ord No. 23 03, 1 12 04)}~~

~~{Sec. 9 91. — License to become void if business dormant; license renewal.}~~

- ~~(a) [Surrender of license and exceptions. Any license under which no business is transacted during a period of 90 days shall become null and void. At the expiration of the 90 day period the license shall be surrendered to the city ABC 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 ABBC administrator to the licensee, the licensee shall immediately notify the city ABC administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the city ABC administrator and a fee shall be due and payable to the city for the period the license was in dormancy in the same amount due had the license remained active for the same period.~~

- ~~(b) Applications based on pending construction or development. Applications approved by the city ABC administrator and based on pending construction or development on the premises shall be null and void after 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. The ABC administrator may grant extensions, as he deems appropriate in exercise of his sound discretion based on facts and circumstance surrounding each request.~~
- ~~(c) Renewals; time for filing. All renewal of license and payment of license fees must be on file with the city ABC administrator fifteen (15) days before the expiration of the license 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 ABC 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 licensee 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 No. 23-03, 1-12-04)}~~

Sec. 9-91 Alcoholic Beverage Control Administrator.

- (a) Pursuant to KRS 241.160, there is hereby created the office of City Alcoholic Beverage Administrator.
- (b) The City Clerk and the Mayor shall serve as the City Alcoholic Beverage Control Administrators (hereinafter referred to as City ABC Administrators), unless the Mayor shall appoint someone else to fill the position pursuant to KRS 241.170.
- (c) The City ABC Administrator may, from time to time, appoint such additional personnel as is necessary to assist him or her in the administration of this chapter.
- (d) The salary for the office of City ABC Administrator, if any, together with the salaries of any other personnel assisting the City ABC Administrator, shall be fixed from time to time by the City Council.
- (e) The functions of the City ABC Administrator shall be the same with respect to the city licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC

Administrator shall become effective until the City Council has first appropriately approved it.

- (f) To prevent possible conflicts of interest, no person shall be a City ABC Administrator, an Investigator or an employee of the city under the supervision of the City ABC Administrator, who would be disqualified to be a member of the ABC Board under KRS 241.100.
- (g) The City ABC Administrator shall have all authority as authorized under KRS Ch. 241 through 244. The City ABC Administrator, and the ABC Administrator's investigators, shall have full police powers of law enforcement, and their jurisdiction shall be co-extensive with the boundaries of the City. They, along with the City of Mayfield Police Department may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.
- (h) Should the City ABC Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, LLC, or other business organization, has a criminal record, he shall have the authority to require such person to appear in person at the Mayfield Police Department for the purpose of having his or her fingerprints taken.
- (i) The City ABC administrator and his investigators shall have available at all reasonable times for their inspection all books and records required by be maintained by licenses under KRS 244.150 and the City ABC Administrator shall receive copies of all reports submitted by licensee to the State Alcoholic Beverage Control Board.
- (j) The City ABC Administrator, before entering upon his or her duties as such, shall take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000.00). The ABC Administrator may require any employee under the ABC Administrator's supervision to execute a similar bond in such penal sum as the Administrator deems necessary.

Sec. 9-92 Appeals.

- (a) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the City ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.
- (b) When any decision of the City ABC Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the city, and the ABC Board shall have made a decision regarding such appeal or protested application, the City ABC Administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by the final order of the ABC Board. As provided by law, and as used herein, no order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A "final order" of the ABC Board is the order entered by said Board, unless an appeal is taken from the Board's order, in which case the

“final order” is the order entered by the Board upon direction from the reviewing court of last resort in the final order of said reviewing court.

Sec. 9-93-9.95 Reserved.

DIVISION 4. [~~Prohibitions, Restrictions and Regulations~~]APPLICATION AND MAINTENANCE OF LICENSE

[~~Sec. 9-92. — Hours of sale~~]

~~{(a) — 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 each weekday. However, if the licensee provides a separate area 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. Caterers may be granted an extension of the hours that they may sell alcoholic beverages to 2 a.m. on weekends. Any catering company wanting to sell alcoholic beverages until 2 a.m. must obtain a \$25.00 permit from the alcohol beverage control administrator. Sunday sales are not permitted unless otherwise noted in subsections (b) and (c).~~

~~(b) — Sunday Sales. No alcoholic beverages may be sold or dispensed on Sundays, unless pursuant to paragraph (c) below.~~

~~(c) — New Year's Eve. The licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs, provided that the appropriate licenses have been obtained from both the city and the state ABC commission. If New Year's Eve falls on Sunday, alcoholic beverages may be sold and dispensed after 56:00 p.m.; if New Year's Day falls on Sunday, then alcoholic beverages may be sold and dispensed until 2:00 a.m. on January 1; provided that in either instance, the appropriate licenses for Sunday sales and for extended sales must be obtained from both the city and the state AC commission. In either event, there shall be no additional city license fee imposed.~~

~~(d) — Control of premises during closing hours. During the closing hours, the premises of any license for the sale of alcoholic beverages by the drink 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.~~

~~(e) — Wholesale deliveries on Sundays prohibited. There shall be no deliveries of alcoholic or malt beverages on Sunday. (Ord. No. 23-03, 1-12-04; Ord. No. 5-13, paragraph 1, 6-10-13; Ord. No. 10-13, Paragraph 9, 12-9-13)}~~

~~{Sec. 9-93. — Hours of sale; exceptions; requirements.}~~

~~{The licensee 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. No. 23-03, 1-12-04)}~~

~~{Sec. 9-94 — Food service requirement.}~~

~~{All license holders of a limited restaurant alcoholic beverage by the drink license shall be required to maintain food service during all hours that alcohol is served. (Ord. No. 23-03, 1-12-04)}~~

~~{Sec. 9-95. — Confiscation authorized if violations occur.}~~

~~{If any alcoholic or malt beverages are found on the outside of the locked or closed off area of any licensed premises at any hours during which the licensee is prohibited by the state alcoholic beverage control act or by this article 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 article and the state alcoholic beverage control act and shall be grounds for revocation or suspension of the license. In addition to other penalties provided for the violation of this article, the city alcoholic beverage control administrator is hereby authorized to confiscate the alcoholic or malt beverages. (Ord. No. 23-03, 1-12-04)}~~

~~{Sec. 9-96. — Advertising restrictions.}~~

- ~~(a) [Signage which refers directly, or indirectly, to alcoholic beverages shall be limited to one two square foot sign, for each 50 square feet of glass window, that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters 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 windows of the licensed premises business price cards no larger than two and one half inches in size, setting forth the price at which he officers alcoholic beverages for sale.~~
- ~~(b) No flashing lights shall be used to illuminate the exterior of any premises licensed under this article.~~
- ~~(c) It shall be unlawful for a licensee under this article 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 article 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 article shall be in compliance with KRS 244.130. (Ord. No. 23-03, 1-12-04)

[Sec. 9-97. — Treating prohibited.]

[No license holder shall give away any alcoholic beverage in any quantity for less than a full monetary consideration. (Ord. No. 23-03, 1-12-04)]

[Sec. 9-98. — Licensee to purchase from and sell only to persons authorized to sell or purchase.]

- (a) No licensee shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder of a special agent's or solicitor's license if such a license is required.
- (b) No licensee shall sell, or agree to sell, any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agent's or solicitor's license. (Ord. NO. 23-03, 1-12-04)]

[Sec. 9-99. — 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 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.
- (2) A person actually or apparently under the influence of alcoholic beverages.
- (3) A habitual drunkard or any person convicted of drunkenness as many as three times within the most recent twelve (12) month period.
- (4) Except as provided in subsection (*3) above, anyone known to the seller to have been convicted of DUI or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or for a felony with =the preceding 12 months. (Ord. No. 23-03, 1-12-04)]

[Sec. 9-100. — Sale to person not providing for his family prohibited.]

~~[No licensee shall sell or agree to sell any alcoholic beverages or cause or permit any alcoholic beverage to be sold to any person who has been reported to the licensee by any court or by any officer acting at the direction of a court as having failed to make proper provision for his family.]~~

~~[Sec. 9 101. — Licensee to display notice as to sale to minors; warning of dangers of drinking during pregnancy to be posted.]~~

~~[(a) — Every retail licensee shall display at all times in a prominent place a printed card at least eight inches by 11 inches in size which shall show, in 30 point or larger type, substantially as follows: Persons under the age of 21 are subject to a fine up to \$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 purpose of purchasing or obtaining alcoholic beverages.~~

~~(b) — All licensed retail vendors of alcoholic beverages shall post in prominent place easily seen by patrons a printed sign at least 11 inches by 14 inches in size, with letters at least one inch high, supplied by the alcoholic beverage control commission, and with gender neutral language supplied by the cabinet for health services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. (Ord. NO. 23 03, 1 12 04)]~~

~~[Sec. 9 102. — Minors not to possess or purchase liquor nor to misrepresent age; use of fraudulent identification.]~~

~~[(a) — As used in KRS 244.083 and this section, premises has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages.~~

~~(b) — A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.~~

~~(c) — A person under 21 years of age shall not 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 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.~~

~~(d) — A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.~~

~~(e) — A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage. (Ord. No. 23 03, 1 12 04)]~~

~~[Sec. 9 103. — Persons whom licensees may not employ.]~~

~~[(a) — A person holding any city license shall not knowingly employ in connection with his other business any person who:~~

~~—— (1) — Has been convicted of any felony within the last two years.~~

~~—— (2) — Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two years.~~

~~(3) — Is under the age of 20 years, unless the person is employed in a capacity that does not involve the sale or serving alcoholic beverages.~~

~~(4) — Within two years prior to the date of his employment, has had any license issued under KRS 243.020, as amended effective June 25, 2013 to KRS 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause.~~

~~(b) — The provisions of paragraph (1) and (2) of subsection (a) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.~~

~~(c) — Violation of this section shall subject both employer and employee to penalties provided in this article and shall be cause for revocation of license. (Ord. No. 23-03, 1-12-04; Ord. No. 10-13, Paragraph 10, 12-9-13.)~~

~~[Sec.9 104. — Retail premises not to be disorderly.]~~

~~[(a) — A retail licensee, a patron, or the licensee's agents, servants or employees shall not cause, suffer or permit the licensed premises to be disorderly.~~

~~(b) — Acts, which constitute disorderly premises, consist of causing, suffering, or permitting patrons, the licensee, or the licensee's servants, agents or employees to cause public inconvenience, annoyance or alarm or create a risk through:~~

~~—— (1) — Engaging in fighting or in violent, tumultuous or threatening behavior; or~~

~~—— (2) — Making unreasonable noise; or~~

~~—— (3) — Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or~~

~~—— (4) — Creating a public nuisance; or~~

~~—— (5) — Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or~~

~~—— (6) — Failing to maintain the minimum health, fire, safety or sanitary standards established by the state or a local government, or by state administrative regulations, for the licensed premises. (Ord. No. 23-03, 1-12-04; Ord. No. 10-13, paragraph 11, 12-9-13)]~~

[Sec. 9-105.—Mandatory responsible beverage training.]

- (a) ~~[All persons employed by restaurants licensed to sell alcoholic beverages by the drink shall before participating in the selling and serving of, or taking orders for alcoholic beverages, complete a city approved responsible beverage training program. For such a program to be approved by the city, it must effectively train participants in the identification of false documents and recognition of characteristics of intoxication. The city will not require enrollment in a specific class, but only that the training be obtained from a recognized program meeting the goals presented in this article.]~~
- (b) ~~All licensed restaurants employing persons required to complete training under subsection (1) above, shall be responsible for all employees completing their training within 120 days of the adoption date of Ordinance No. 2-05 [April 11, 2005]. Following the 120-day grace period for compliance, any new employee shall have the required training prior to engaging in the selling and serving of, or taking orders for alcoholic beverages. All persons completing the training required by this section shall be recertified in responsible beverage service training, by a city approved program not less than once every three years thereafter.~~
- (c) ~~Each restaurant licensed by this article must at all times that alcoholic beverages are being served have at least one person currently certified in responsible beverage service training, as required in subsections (a) and (b) above, on duty.~~
- (d) ~~The manager of the restaurant shall be responsible for compliance with these requirements and shall maintain for inspection by the city ABV administrator a record on each. (Ord. No. 23-03, 1-12-04; Ord. No. 2-05, paragraph 1, 4-11-05).]~~

Sec. 9-96 Advertisement.

Before an application for a license shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in a newspaper meeting the requirements of KRS Ch. 424, including the following:

- (a) The advertisement shall state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership of the LLC if the applicant is an LLC, as well as the name of the business and its address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the license is sought, and the type of license for which application is made.
- (b) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

Sec. 9-97 Application fee.

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

Sec. 9-98 Form of application.

- (a) All licenses granted under this chapter shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board and the City of Mayfield, as amended and supplemented from time to time by each respective agency.
- (b) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as required by the Kentucky Revised Statutes, the ABC Board and the City of Mayfield, including as follows:
 - a. Name and address;
 - b. Nature of interest;
 - c. Whether or not a citizen of the United States;
 - d. Date of birth;
 - e. Date residence was established in Kentucky, if a resident of Kentucky. If Mayfield resident, indicate when residence was established;
 - f. Whether or not he or she has any interest in any other license or LLC, corporation, partnership, or other business organization holding a license under this chapter;
 - g. Extent of stock or company ownership;
 - h. Whether or not he or she has any interest in any license or LLC, corporation, partnership or other business organization holding a license in any other state or province.
- (c) Each application shall be accompanied by a certified check, cash or a postal or express money order for the amount of the license fee, less the fifty dollar (\$50.00) application fee.
- (d) In addition to the above specified information, the applicant shall file with the application responses to any additional questions as may be posed or prescribed by the City ABC Administrator. The City Council has adopted a statement of guidelines and priorities for the issuance of licenses and, in order to determine the extent to which applications may further or impede the objectives of those guidelines, the City Council may, by municipal order, adopt a questionnaire to be submitted to applicants for licenses.

Upon adoption of the questionnaire, it shall become a part of the application process. The initial questionnaire adopted by the City Council is a part of this chapter and incorporated herein as Exhibit A of Ordinance 24-16. The questionnaire may be altered, expanded, supplemented or replaced by municipal order of the City Council hereafter. In addition to the information contained in the application and any city ordered questionnaire, the City ABC Administrator may require such other information as the Administrator may in his or her discretion deem desirable, reasonable or appropriate to the consideration of the application.

Sec. 9-99 Other conditions.

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

- (a) The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by the City Building Inspector, and any and all other inspections required by the Kentucky Building Code;
- (b) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator; and
- (c) No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the city at the time of issuing the license, nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the city. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the city at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.
- (d) No person, whether an applicant for license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the City ABC Administrator, or any member of his or her staff, or any state ABC Administrator of staff, in any matter in which an application or proposed application for license, or procedure for revocation or suspension is pending before such officer. This division is not intended to stifle expressions of opinions; however, it is intended to make clear that the ABC Administrators are public officials charged with the administration and enforcement of the law, both local and state. Any person applying for a license, or contesting the revocation or suspension of a license, who engages in attempted bribes, threats, attempted undue influence or intimidation of a city or state ABC Administrator or staff shall be disqualified from receiving or retaining a license, in addition to other penalties as provided by law. The procedures for appeals shall apply to disqualifications, revocations, or suspensions under this section. This section shall not be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after a final order or revocation or suspension, where the chapter and applicable statutes allow for such payments in settlement.

Sec. 9-100 Form of License.

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

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

- (g) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

Sec. 9-101 Change of information.

- (a) If after a license to individuals or to a sole proprietor has been issued, there is a change in any fact required to be set forth in the application, a verified amendment in writing giving notice of the change shall be filed with the City ABC Administrator within ten (10) days of the change.
- (b) Since a number of licenses issued by the city are in the name of corporations or other business organizations, it is necessary that ownership changes in such organizations be reported to the City ABC Administrator. The City ABC Administrator can, therefore, investigate the person to whom the ownership or management is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.
- a. As used with regard to a partnership, corporation, LLC or other business organization herein, the word "change" is construed to include any change in managers, partners or LLC members, directors or officers of the corporation, or change in ownership or stock whereby any person secures ten percent (10%) of the outstanding ownership or stock. Transfer of more than ten percent (10%) of the total ownership or stock shall require a new license.
- b. The following information will be required concerning any new manager, partner or LLC member, new director, officer, or person securing any interest in alcoholic beverage license:
- i. Name and address;
 - ii. Nature of interest;
 - iii. Whether or not a citizen of the United States;
 - iv. Date of birth;
 - v. Date residence was established in Kentucky, if a resident of Kentucky. If a Mayfield resident, indicate when residence was established;
 - vi. Whether or not he or she has any interest in any other license or in any LLC, corporation, partnership or other business organization holding a license under this act;
 - vii. Extent of stock or company ownership;
 - viii. Whether or not he or she has any interest in any license or in any LLC, corporation, partnership or other business organization holding a license in any other state or province.
- c. This information shall be filed with the City ABC Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made within ten (10) days of any change of required information.

Sec. 9-102 Renewal of license.

- (a) Every year, except in the case of temporary licenses, each licensee shall renew its license. All renewal licenses must be on file with the City ABC Administrator no less than thirty (30) days prior to the expiration of the license for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period as a result of construction, act of God, casualty, death, the acquisition or threatened acquisition of the premises by any federal, state, city or other governmental agency or private organization possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; provided that said licensee shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

Sec. 9-103 Lost or destroyed license.

When a license shall be lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after the Administrator shall have been satisfied as to the facts; provided, however, that the applicant for said duplicate license shall pay a fee of ten dollars (\$10.00) for the duplicate license.

Sec. 9-104 Revocation or suspension.

- (a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of KRS Ch. 241 through 244, or any rule or regulation of the ABC Board or of the Department of Revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this chapter now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Ch. 241 through 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked

or suspended for any cause which the City ABC Administrator in the exercise of his or her sound discretion deems sufficient.

(b) A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.

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

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

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

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

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

e. Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

Sec. 9-105 Proceedings for revocation or suspension of license.

(a) Upon the verified complaint of any person, or on the initiative of any law enforcement officer or of the City ABC Administrator, the City ABC Administrator may institute proceedings to revoke or suspend any license granted under this chapter. A license may be revoked or suspended only after the licensee shall have been given written notice, by certified or registered mail, of the proposed revocation, including notice of the reasons for such proposed action. The licensee shall be given opportunity to be heard in opposition to the proposed revocation or suspension. The notice of proposed action shall advise the licensee of the date, time and place of the hearing. Notice shall be sufficient if mailed to the licensee at the address shown in the last application for a license or in the last statement supplemental to or in amendment of this application, whether or not the mailing is receipted for or claimed.

(b) The specific procedures to be followed in hearings on actions for revocation or suspension shall be those set out in the Kentucky Administrative Procedure Act (KAR Chapter 13B)

- (c) A decision of the City ABC Administrator revoking or suspending a license may be appealed as provided in KRS 243.550.
- (d) Within three (3) days after any order of revocation or suspension of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his or her license to the City ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the Chief of Police, at the request of the City ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the City ABC Administrator.
- (e) When a license has been revoked or suspended, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.
- (f) Appeal from the decision of the City ABC Administrator revoking or suspending a license shall be to the ABC Board. The timely filing of an appeal shall stay further proceedings for revocation.
- (g) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall at once suspend all operations authorized under his or her license. Upon the entry of a final order of the ABC Board sustaining or ordering revocation or suspension on appeal, the licensee shall at once suspend all operations authorized under this license.

Sec. 9-106 Transfer or assignment.

No license issued under this chapter shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of one hundred dollars (\$100.00) shall be made to the ABC Administrator.

Sec. 9-107 Refusal of license; guidelines for approval of quota licenses.

- (a) The City ABC Administrator may refuse to issue or renew a license for any of the following reasons:
 - a. Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales or the administration thereof.
 - b. If the applicant has done any act for which a revocation of license would be authorized; or
 - c. If the applicant has made any false material statement in his or her application.
- (b) In the case of quota licenses, before approving an application, the City ABC Administrator is hereby directed to consider, in addition to the factors set out in KRS

243.450, 243.490 and 243.500, and any other factors the Administrator determines in his or her discretion to be reasonable and pertinent to the license application, the following criteria:

- a. Ownership. The City of Mayfield places great value on business owners who are invested in the Mayfield Community.
 - b. Economic Impact. The City of Mayfield desires businesses which make the most positive impact on the community, in number of jobs, payroll, property investment and revenues to the city.
 - c. Site of Business. The City of Mayfield is interested in serving all geographic areas of the city. Therefore, the city does not wish to cluster all licensed ABC outlets in one area.
 - d. Aesthetics. The City of Mayfield is committed to protecting the character and beauty of our community.
 - e. Revitalization. The City of Mayfield supports the revitalization and reuse of existing buildings.
 - f. Capital. The City of Mayfield values businesses that demonstrate their ability to financially support and sustain their viability.
 - g. Public support of licensed business in the area. The City of Mayfield intends that public sentiment and safety be considered in deciding upon the approval of retail liquor sales licenses in any area of the city.
- (c) An applicant who has been refused a license by the City ABC Administrator may appeal the refusal to the ABC Board pursuant to KRS 241.200.

Sec. 9-108 Review of license; books, records and reports.

- (a) Applicants to whom a license is issued pursuant to this chapter shall provide periodic information demonstrating compliance with the conditions of any license, such as, but not limited to, the continuing requirement that a minimum percentage of the applicant's business income is earned from the sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. The city shall provide the form schedule to the licensee. The licensee's acceptance of a license to manufacture or traffic in alcoholic beverages shall constitute consent to the filing of the quarterly report. In the case of caterer filing, the quarterly report shall identify each catered event by type of event, date and address of the event, and shall provide a per event breakdown of sales and the ratio of food sales to alcohol sales during the reporting period. This requirement for filing of reports notwithstanding, the city may at any time come upon the premises of any licensee and examine the books, audio and visual recordings, and records to determine whether the licensee is in compliance with all parts of this chapter. In the event the conditions of any license requirement are not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least two

(2) years in determining whether or not the food sale percentage requirement has been met.

- (b) Every licensee under this chapter shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and such city employees who may assist the City ABC Administrator in his or her review.
- (c) For the purpose of assisting the City ABC Administrator in enforcement of this chapter, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by statute shall be furnished to the City ABC Administrator.

Sec. 9-109 Dormancy.

- (a) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.
- (b) Any license under which no business is transacted during a period of ninety (90) days shall be deemed inactive and, unless the conditions set forth in division (c) below are proved to the satisfaction of the City ABC Administrator, the license shall be surrendered to the City ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the City ABC Administrator.
- (c) The provisions of division (b) hereof shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, whether acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Prior to the expiration of ninety (90) days of inactivity, such licensee shall furnish to the City ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business, for any of the specific reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted there under within twelve (12) months from the date of notice to the City ABC Administrator. Such extension may not extend beyond the renewal date but may be for

such times as the City ABC Administrator deems appropriate in exercise of his or her sound discretion.

Sec. 9-110—9-115 Reserved.

DIVISION 5. [~~Regulatory License Fee~~] HOURS FOR SALE AND DELIVERY

[~~Sec. 9-106.—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 any licenses or fees imposed under the provisions of this article for the retail sale of alcohol.~~

~~(b)—The regulatory license fee shall be six percent for the fiscal year beginning July 1, 2003, and continuing thereafter until amended or repealed. (Ord. No. 23-03, 1-12-04)]~~

[~~Sec. 9-107.—Payment.~~]

~~[Payment of such fee shall accompany forms approved for use by the ABC administrator and shall include a tabulation of both gross food sales and alcohol sales for the preceding month. The forms and payment shall be submitted to the city clerk 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 any fees required under the provisions of this article shall be deducted each month as a credit. (Ord. NO. 23-03, 1-12-04)]~~

[~~Sec. 9-108.—Failure to pay; interest on late payment.~~]

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

~~(b) Interest shall be assessed upon any past due payments at the rate of 12 per cent per annum. (Ord. No. 23-03, 1-12-04)]~~

[~~Sec. 9-109.—Penalty for non-payment.~~]

~~[If the holder of any license shall fail to pay the regulatory license fee imposed by this section within ten days of the due date, an automatic penalty of \$50.00 shall be assessed for the first offense. An automatic penalty of \$100.00 shall be assessed on the second offense, and an automatic penalty of \$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 12 month basis, with the number of offenses being reduced to zero at the beginning of each new license period., (Ord. No. 23-03, 1-12-04)}~~

~~{Sec. 9-110. — 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. The books and records shall be available at all reasonable times for inspection by the city alcoholic beverage control administrator or any authorized representative. (Ord. No. 23-03, 1-12-04)}~~

~~{Sec. 9-111. — Audit requirements.}~~

~~{The city alcoholic beverage control administrator may at his discretion require that a licensee make his records available to the city for the purpose of conducting an audit to verify compliance with the 70 per cent food sales requirement. (Ord. No. 23-03, 1-12-04)}~~

~~{Sec. 9-112. — Penalties for violation of article.}~~

~~(a) [Any person who violates any provision of this article 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 \$500.00.~~

~~(2) For any subsequent offense, a fine not to exceed \$500.00 or confinement in jail not more than six months, or both.~~

~~(d) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480. (Ord. No. 23-03, 1-12-04)}~~

~~{Sec. 9-113. — 9-140. Reserved.}~~

Sec. 9-116 Hours for sale and delivery.

(a) A licensee for distilled spirits, wine or malt beverages shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages between the hours of 6:00 a.m. and until 12:00 midnight before the following day Monday through Saturday. Sale of same shall not be permitted between the hours of 12:00 midnight and 1:00pm on Sunday, or between the hours of 9:00 p.m. on Sunday and 6:00 a.m. on Monday, with noted exceptions below:

- a. A licensee licensed to sell distilled spirits, wine or malt beverages by the drink may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, provided that the appropriate licenses have been obtained from both the city and the state ABC Board.
- b. Retail package distilled spirits and wine sales and package malt beverage sales shall be permitted from 6:00 a.m. until midnight each day of the week, except that such package sales shall not be permitted during the hours of 12:00 midnight and 1:00 p.m. on Sunday, or between the hours of 9:00 p.m. on Sunday and 6:00 a.m. on Monday.
- c. Because this ordinance permits limited Sunday liquor and wine drink sales, a licensee must also obtain a Sunday retail drink license. No additional license is needed for Sunday beer (drink or package) sales or Sunday liquor and wine package sales.
- d. All wholesale deliveries shall be made before 7:00 p.m. Monday through Saturday. No Sunday deliveries shall be allowed.

Sec. 9-117—9-120 Reserved.

DIVISION 6. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

Sec. 9-121 Gambling.

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

Sec.9-122 Radio receiving apparatus.

It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Graves County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

Sec. 9-123 Security.

The licensee shall be responsible for maintaining security on his or her premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

The licensee shall be required to install and maintain in proper working order security video cameras with 30-day storage capacity to monitor areas where purchases are completed (cash register areas).

In accordance with KRS 244.125 there shall be no loaded firearms in a room where alcoholic beverages are being sold by the drink.

Retailers must have an entrance of clear glass and permit an unobstructed view (KRS 244.110)

Sec. 9-124 Prizes prohibited.

It shall be unlawful for the licensee under this chapter who sells alcoholic beverages of any kind to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages nor shall any licensee give away any alcoholic beverage in any quantity for less than a full monetary consideration.

Sec. 9-125 Drunkenness.

No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee sell alcoholic beverages to any person who is actually or apparently under the influence of alcoholic beverages, or known to the seller or server to be a habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period. No licensee shall permit any person who is actually or apparently under the influence of alcoholic beverages to remain on the licensed premises. As used herein, whether a person is actually or apparently under the influence of alcoholic beverages shall be determined by the licensee or server with specific reference to the principles and guidelines and established in mandatory alcohol server training as to the signs of alcohol intoxication.

Sec. 9-126 Underage sales.

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

Sec. 9-127 Sign requirements-Notice to Persons Under the Age of Twenty-One (21).

Per state law, the licensee shall display at all times in a prominent place a sign at least 8" x 11" in thirty (30) point or larger type which states as follows:

Persons under the age of twenty- one (21) are subject to a fine of up to One Hundred Dollars (\$100.00) if they:

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

Sec. 9-128 License to be displayed.*

- (a) Pursuant to the requirements set forth in KRS 243.895, the licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.
- (b) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

Sec. 9-129 Legal transactions for wholesalers, distributors and retail.

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

Sec. 9-130 Employment restrictions.

No licensee shall knowingly employ in connection with his or her business any person who:

- (a) Has been convicted of any felony within the last two (2) years;
- (b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years;
- (c) Is under the age of twenty-one (21) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute;

(d) Within two (2) years prior to the date of his or her employment, has had any city license under this chapter revoked for cause.

Sec. 9-131 Happy hour restrictions.

Licenses shall not offer reduced drink specials (e.g. two-for-one, happy hours) or after the hour of 11:00 p.m. until closing.

Sec. 9-132 Lavatory facilities required.

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

Sec. 9-133 Nudity and adult entertainment activities prohibited.

No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premise. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises. No licensee shall sponsor or permit wet t-shirt or wet clothing contests, lingerie fashion shows, mud wrestling, jell-o wrestling or similar activities, nor shall a licensee allow dancing with touching for compensation (including but not limited to wages, tips or gratuities), or any other service, display or contest requiring physical contact between patrons and/or patrons and employees on any licensed premises. No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premise in the city.

Sec. 9-134 Drive-through outlets prohibited.

No license shall be issued for any premises to operate a vehicle “drive-through” outlet for the sale of alcoholic beverages, nor shall any person or licensee operate or permit such a vehicle drive-through outlet. This prohibition shall not apply to a drive-up window at any premises licensed for retail package liquor, wine or malt beverage, including retail beer, where the primary sales area is arranged for and utilized by persons entering the premises on foot and manually carrying out the products purchased therein.

Sec. 9-135 Cause for revocation.

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

Sec. 9-136 Retail Premises Not to Be Disorderly – Per KRS 244.120

- (a) A retail licensee, a patron, or the licensee's agents, servants, or employees shall not cause, suffer, or permit the licensed premises to be disorderly.
- (b) Acts which constitute disorderly premises consist of causing, suffering, or permitting patrons, the licensee, or the licensee's servants, agents, or employees to cause public inconvenience, annoyance, or alarm, or create a risk through:
 - a. Engaging in fighting or in violent, tumultuous, or threatening behavior;
 - b. Making unreasonable noise;
 - c. Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency;
 - d. Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;
 - e. Creating a public nuisance which is further defined by KRS 241.010 (39);
 - f. Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or
 - g. Failing to maintain the minimum health, fire, safety, or sanitary standards established by the state or local government, or by state administrative regulations, for the licensed premises.

Sec. 9-137 Suppliers/Wholesalers prohibited from interest in retail business

A supplier or wholesaler cannot have an interest in a retail licensed business. (KRS 244.240, KRS 244.570, KRS 244.590(1)(a))

A supplier or wholesaler cannot have an interest in the real estate where a retailer is located or in the personal property used by the retailer. KRS 244.590(1)(b)

A supplier or wholesaler cannot furnish, give, rent, lend or sell any equipment, fixtures, signs, supplies, money, services, or other things of value to a retailer. KRS 244.240(3), KRS 244.590(1) (c). However, brewers and distributors are permitted to give the following items to retailers: tapping accessories, rods, vents, taps, hoses, washers, couplings, vent tongues, check valves, and tap knobs 804 KAR 11:010, Section 1

A supplier or wholesaler cannot pay or credit a retailer for advertising, displaying or distributing (KRS 244.590(1)(d)).

A wholesaler may sell distilled spirits and wine to a retailer on (30) day credit. KRS 243.170 (4). However, a distributor cannot sell beer to a retailer except for cash paid at time of delivery. KRS 244.040(1).

9-138—9-140 Reserved.

ARTICLE 7. MINORS

Sec. 9-141 Possession by minors prohibited; no person shall aid possession by minors.

- (a) Except as specifically authorized under KRS Ch. 241 through 244, no person under the age of 21 may possess alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages.
- (b) As provided in KRS 244.085, no person under the age of 21, except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. For purposes of this prohibition, "premises" specifically encompasses the entire lot upon which a licensed establishment is situated, including any drive-up window. The prohibition contained in this division (b) shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, or similar establishment.
- (c) No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licensees, as set out in Sec. 6.126, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.
- (d) No person being the owner or occupant or otherwise in possession or control of any property located within the city shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.
- (e) It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.

Sec. 9-142--9-145 Reserved.

DIVISION 8. CONSUMPTION ON PREMISES PROHIBITED

Sec. 9-146 Consumption on licensed package premises prohibited.

No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises. The licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.

Sec. 9-147 Exceptions.

This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of KRS Ch. 243, or where sampling is permitted for retail distilled spirits and wine licensee under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:030.

Sec. 9-148 Habitual congregating.

- (a) No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.
- (b) No person or entity being the owner or otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.
- (c) It shall be a defense to any prosecution if such licensed vendor or property owner shall permit the division of police to post and maintain a legible, painted or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.

Sec. 9-149 Definitions.

As used in this section, the term:

- (a) Habitual shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;
- (b) Package liquor store shall mean a retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes;
- (c) Public nuisance shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by or the health, safety and welfare of the public; and
- (d) Vacant property shall mean a vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

Sec. 9-150—9-155 Reserved.

DIVISION 9. MALT BEVERAGE KEG REGISTRATION

Sec. 9-156 Definitions.

As used in this section, “keg” is defined as a container designed and capable of holding six (6) or more gallons of malt beverage.

Sec. 9-157 Malt beverage keg identification tag.

All retail licensees (hereinafter referred to as “licensee”) operating within the City of Mayfield who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the city to each keg at the

time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:

- (a) The purchaser is of legal age to purchase, possess and use the malt beverage;
- (b) The purchaser is not purchasing the keg for resale and will not allow any person under the age of twenty-one (21) to consume the malt beverage;
- (c) The purchaser will not remove, obliterate or allow to be removed or obliterated the identification tag;
- (d) The purchaser will state the property address where the keg will be consumed and physically located; and
- (e) The purchaser is aware of his/her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

Sec. 9-158 Keg registration.

- (a) The licensee shall obtain the name, address and telephone number of the purchaser and shall require the purchaser to produce a valid driver's license number and, if that is not available, to produce at least one other valid form of identification.
- (b) The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.
- (c) The keg registration form shall be forwarded to the City ABC Administrator within five (5) working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.
- (d) The City ABC Administrator is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.
- (e) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the city concerning the provisions of this section

Sec. 9-159 Unlawful sales.

It shall be unlawful for any licensee to sell or offer for sale kegs without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have the declaration form visible and readily accessible from the location of the keg. The penalties for violation of this section shall be the penalties as set out in Sec. 11.171. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

Sec. 9-160—9-165 Reserved

SECTION 10. ENFORCEMENT

Sec. 9-166 Enforcement.

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

NOTICE: Under the authorization of KRS 241.090, City of Mayfield Police Officers, the City ABC Administrator, and the assigned Investigators for the City's ABC Administration, are not required to obtain search warrants for inspections upon the licensed facilities or any living quarters accessible by the licensed facility. This includes but is not limited to the review of any video or audio recordings of the licensed facility.

Sec. 9-167-170 Reserved

SECTION 11. PENALTIES

Sec. 9-171 Penalties.

- (a) In addition to any criminal prosecution instituted in Graves District Court against an alleged violator, the City ABC Administrator may assess the fines and penalties authorized in KRS 243.480, including the per diem assessments for ongoing violation. Should the fines or penalties assessed by the state change under KRS 243.480, then the fines or penalties under this article shall be adjusted accordingly to mirror the fines or penalties imposed by state law. Payment of all fines shall be made to the City ABC Administrator who shall transmit said payments to the City Clerk's Office to be deposited in the appropriate designated account.
- (b) Any person, firm or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) or imprisoned in the county jail for not more than six months, or both. The penalties provided for tin this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

Sec. 9-172—9-180 Reserved.

DIVISION 12. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

Sec. 9-181 Mandatory responsible beverage service training.

- (a) All persons employed in the selling and serving of alcoholic beverages shall complete a server training course provided by the Kentucky Department of Alcoholic Beverage Control.
- (b) All persons required to complete training under division (1) above shall complete that training within thirty (30) days of the date on which the person first becomes subject to the training requirement. When a new business is licensed to serve alcoholic beverages all employees must be trained prior to the opening of the business.
- (c) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the city ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed hereunder must at all times when alcoholic beverages are being served, have at least one person currently certified in responsible beverage service training on duty as described herein.
- (d) All persons completing the training required by this section shall be re-certified in a responsible beverage server training course provided by the Kentucky Department of Alcoholic Beverage Control not less than once every three (3) years thereafter.

Sec. 9-182—9-190 Reserved

DIVISION 13. SIGNS AND ADVERTISING

Sec. 9-191 Signs and advertising.

- (a) All signage shall be in compliance with any and all other existing rules and regulations and Ordinances of the City of Mayfield, including but not limited to, the Zoning Ordinance as currently enacted, and/or as may be amended in the future.
- (b) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.
- (c) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder.
- (d) No licensee shall publish or display advertising that is false or misleading, nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any known athlete is depicted or referred to, nor shall any licensee publish or display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or the use of terms such as "high test", "high proof" or "extra strong") or depicting activities that tend to encourage excessive consumption.

- (e) No licensee shall erect or allow to be erected any banner that displays any particular brand of alcoholic beverage on the outside of the building or on the property.
- (f) Any off-premises signage advertising the sale of alcoholic beverages is prohibited. It shall be unlawful to attach signage advertising alcoholic beverages to the exterior of the building or the exterior premises of the business. This prohibition shall include the use of outdoor umbrellas or other outdoor or patio fixtures that feature the name or logo of an alcoholic beverage or manufacturer of alcoholic beverages.
- (g) Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises business cards not larger than two and one-half inches (2-1/2") in size, setting forth the price at which the licensee offers alcoholic beverages for sale.
- (h) It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium of advertising alcoholic beverages.
- (i) No licensee shall advertise alcoholic beverages on any municipally-owned property or at any municipally-sponsored event.
- (j) Per state law (KAR 1:030(1) a licensee cannot make an advertising statement that disparages a competitor's product.

Sec. 9-192—9-200 Reserved

DIVISION 14. PATIO AND OUTDOOR SALES

Sec. 9-201 Patio and outdoor sales regulations.

- (a) Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.
- (b) No licensee shall offer alcoholic beverages for sale in a patio or outdoor area of the licensee's premises except in a clearly defined patio or outdoor area that is enclosed by a fence or other screening, not less than four (4) feet in height. All outdoor areas and screening shall be subject to the approval of the City ABC Administrator. An exception to this restriction may be granted for seasonal sidewalk cafes, upon application to and authorization from the ABC City Administrator. The permission to operate a sidewalk café shall be governed by the provisions of this article and shall be subject to the

regulation of local zoning authorities as well as codes enforcement and public safety officers.

- (c) No licensee shall offer patio or outdoor sales of alcoholic beverages unless the patio or outdoor area and fencing or screening area shall have been approved in advance by the ABC Administrator.
- (d) Unless exempted by the following provisions of this chapter and by permission of the City ABC Administrator, patio areas must comply with the screening requirements of this chapter. Sidewalk café seating areas must comply with this chapter and with local zoning chapter and other public safety requirements noted in this chapter or in other provisions of local ordinance, statute or regulation.
- (e) For any outdoor sales events as regulated in this section, wristbands must be provided on patrons over the age of 21 years, for visible identification for enforcement.
- (f) No one shall be permitted to bring beverages from another location into the outdoor sales area at anytime;

Sec. 9-202 Exception to screening requirement for outdoor sales and service of alcoholic beverages in the case of permitted sidewalk cafes in the Downtown Business District.

- (a) Licensees in the Downtown Business District may request an exception from this [outdoor screening of patio] provision to permit seasonal and temporary sidewalk cafes that serve food and alcoholic beverages as an adjunct to the primary and adjacent licensed premises. In the case of permitted temporary sidewalk cafes, they shall be deemed part of the licensed premises. A sidewalk café permit is deemed seasonal and temporary in that Licensees with a sidewalk café permit shall not place tables and seating on public sidewalks on a continuous basis from November 1 through February 28; however, tables and seating may be placed intermittently during this period of appropriate weather occurs.
- (b) Any food establishment which operates a restaurant, which is defined herein as a food establishment with a kitchen licensed by the Graves County Health Department, and is licensed under this chapter and the provisions of the state ABC code, may, upon application to the local ABC Administrator, ask permission to expand on a seasonal and temporary basis, the operation of that restaurant onto a part, and only that part, of the public sidewalk which immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit. A sidewalk café permit shall be valid for not more than twelve (12) months at a time, but may be renewed upon the submission of a new application.
- (c) The ABC Administrator may issue the permit if he or she finds that:
 - a. The applicant is licensed under this chapter and the ABC Code for the Commonwealth of Kentucky;
 - b. The applicant is in compliance with all conditions and restrictions of said license;
 - c. The applicant has all necessary building and use permits, including certification of the Board of Zoning Adjustments that the sidewalk café is permitted at the

premises location, in addition to a kitchen license issued by the Graves County Health Department; and

- d. Also finds that the issuance of the Permit would not result in any significant adverse land use impacts.

Sec. 9-203 Conditions for sidewalk café permit.

The issuance of a permit shall be subject to the following conditions and restrictions; provided, however, that the ABC Administrator may without adverse hearing procedures impose additional reasonable restrictions or withdraw approval upon the operation of any sidewalk café where necessary in the judgment of the said Administrator to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing. Specifically, the permit may be revoked by the ABC Administrator if the conditions listed below are violated or up on the violation of a federal, state or City law. The permit will also be revoked if the food establishment has two (2) or more violations of the nuisance ordinance found in City of Mayfield Code of Ordinances Chapter 9. If the permit is revoked, the owner of the food establishment shall not be eligible to reapply until one year has passed from the date of the permit revocation.

- (a) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.
- (b) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. They shall be removed at the end of each business day at the hour specified in the permit. Umbrellas, tables, chairs, and other portable appurtenances shall be confined to the area shown on the approved Permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.
- (c) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.
- (d) The licensee shall, in addition to all other requirements of law, take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passersby or persons who are not of age or who are obviously or apparently intoxicated.
- (e) No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.
- (f) No amplified sound shall be used within a sidewalk café. At no time shall any music originating from any part of the premises create a nuisance;

- (g) Dancing shall not be permitted or allowed in the sidewalk café;
- (h) The licensee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol and the operation of the premises;
- (i) The permit for sidewalk café may not be assigned or transferred;

Sec. 9-204 Other requirements applicable to sidewalk cafes.

No sidewalk café permit shall be effective unless the licensee has filed with the ABC Administrator evidence of insurance insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of such sidewalk café in an amount to be established by the City Council. The city shall be named an additional insured in the policy providing such insurance and such policy shall further provide that it may not be canceled except upon ten (10) days' written notice.

Sec. 9-205—9-210 Reserved.

DIVISION 15. IMPLEMENTATION OF ORDINANCE PROVISIONS

Sec.9- 211 Implementation of ordinance provisions.

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

Section 2. That all ordinances or parts thereof in conflict herewith are deemed void and held for naught. If any section of this Ordinance, including but not limited to, any section, subsection, paragraph, sentence, clause, phrase, or any other portion of this Ordinance, is declared illegal or unconstitutional, or otherwise invalid by a Court of competent jurisdiction, such declaration shall not affect the remaining portions hereof.

Section 3. That this Ordinance will become in full force and effect from and after its approval, adoption and publication.

WITNESS:

ATTEST:

**TERESA CANTRELL, MAYOR
CITY OF MAYFIELD, KENTUCKY**

**TAMIE JOHNSON, CITY CLERK
CITY OF MAYFIELD, KENTUCKY**

ORDINANCE 24-16

EXHIBIT A

To be completed by applicants for the licensing of an establishment that sells alcoholic beverages.

Select what type of license you are seeking:

Quota Retail Drink

Quota Retail Package

Briefly describe your business model.

Ownership: The City of Mayfield places great value on business owners who are invested in the Mayfield community; examples: sponsorships, civic service, property investments, or any other

engagement in the Mayfield community. Please list your owners, principals, investors with name & address. List local affiliations, if any. (use additional sheets, if needed)

Economic Impact: Describe your anticipated economic impact on the community: number of jobs, payroll, property investment and revenues to the city, etc.

Site Description: What is the address of your proposed location? The City of Mayfield is interested in serving all geographic areas of the city. Therefore, the City wishes not to cluster all licenses in one area. Describe your proposed location. Include a sketch or plat of your proposed site, including streets, lot size and adjacent property owners or businesses; ownership or lease arrangements; proximity to schools, churches or government buildings. Include a safety plan and how you will mitigate any traffic congestion. Does this application reflect compliance with the local zoning ordinance?

Aesthetics: The City of Mayfield is inherently committed to protecting the character and beauty of our community. What do you envision the site and building will look like? What or how does your design contribute to the existing character of the neighborhood?

Check all that apply: The City of Mayfield wholeheartedly supports the revitalization of downtown as well as the reuse of existing buildings.

- New construction – OR
- Existing building/non-historic – OR
- Existing building/historic

Capital: The City of Mayfield values businesses that demonstrate their ability to financially support and sustain their viability. What is your plan for capitalizing your business and how will you sustain this long term? Evidence should include proof of equity investment from applicant &/or investors; proof by letter of financing approval or letter of credit if a lender is required; List any bankruptcies and lawsuits in which you or your partners are named or engaged.

Experience: Include your business, retail and educational experience to demonstrate your ability to successfully operate an alcohol sales establishment. Define your specific business objectives and goals and how your experience will help achieve them. List your retail experience, number of years in business, or educational background. Include any training or experience that would demonstrate your ability to operate a licensed business.

Business Plan: Consideration will be given to applicants who submit a complete business plan. Assistance on forming a business plan is available from the Purchase Area Development District, 270-247-7171.

MAYFIELD

ORDINANCE 5-13

“AN ORDINANCE AMENDING CHAPTER 9, ARTICLE III, ALCOHOLIC BEVERAGES, BY EXTENDING THE HOURS OF SALE FOR CATERERS.”

WHEREAS, the City issues licenses to qualified caterers who may sell alcoholic beverages ; and,

WHEREAS, state law has not been modified by SB 13 to allow the sale of alcohol on election days; and

WHEREAS, upon recommendation of the Finance and Administration Committee, the hours of sale for special events need to be extended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAYFIELD, KENTUCKY, THAT:

Section 1. Amending Section 9-92(a). Hours of Sale, *Retail sale for consumption on licensed premises*, as follows:
“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 each weekday. ~~However, sales may not be conducted 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 area 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. Caterers may be granted an extension of the hours that they may sell alcoholic beverages to 2 a.m. on weekends. Any catering company wanting to sell alcoholic beverages until 2 a.m. must obtain a \$25.00 permit from the Alcohol Beverage Control Administrator. Sunday sales are not permitted unless otherwise noted in subsections (b) and (c) of this ordinance.”

”

Section 2. All ordinances or parts thereof in conflict herewith are declared void and held for naught.

Section 3. This ordinance shall become effective after its reading, approval and publication in the *Mayfield Messenger*.

ATTEST:

Teresa Cantrell, Mayor
City of Mayfield, KY

Tamie Johnson, City Clerk
City of Mayfield, KY

ORDINANCE 10-13

AN ORDINANCE AMENDING THE EXISTING ORDINANCE PERTAINING TO ALCOHOLIC BEVERAGES

WHEREAS, it is the opinion of the Common Council of the City of Mayfield, Kentucky that it is necessary and appropriate to amend its existing ordinance pertaining to alcoholic beverages so as to incorporate the changes passed in Senate Bill 13 by the Kentucky General Assembly.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF MAYFIELD, KENTUCKY AS FOLLOWS:

Section 1. That Section 9-64. **Definitions** is hereby amended to read as follows:

As used in this article, unless the context clearly indicates or requires a different meaning, the words and terms defined in KRS 241.010, ~~as amended in House Bill 466~~, as amended in Senate Bill 13, shall apply, which shall including the definition of "caterer."

Section 2. That Section 9-65. **Incorporation of state law** is hereby amended to read as follows:

(a) The provisions of the state alcoholic beverage control laws contained in KRS chapters 241, 242, 243, and 244, as amended in Senate Bill 13, 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 article and all statutes and regulations of the state applicable thereto. Penalty, see section 9-109.

Section 3. That Section 9-75. **Date licenses expire; proration** is hereby amended to read as follows:

All licenses issued by the city shall be valid for a period of no more than one year. All licenses shall expire on ~~March 31~~ January 31 of each year. Applications for

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renewal are to be filed with the city at least 15 days prior to expiration. When any person applies for a new license he shall be charged the full fee for the respective license if six months or more remain before the license is due to be renewed and one-half the fee if less than six months remain before the license is due to be renewed. In the event any licensee shall cease doing business for any reason, no refund of the city license fee shall be granted.

Section 4. That Section 9-79 **Public notice of intent to apply for license** is hereby amended to read as follows:

Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for a supplemental bar license shall before applying for a license advertise, by publication in *The Mayfield Messenger*, his or her intention to apply for a license as stipulated in KRS 243.360 as amended effective June 25, 2013.

Section 5. That Section 9-81 **Application for state license** is hereby amended to read as follows:

All applicants for alcoholic beverage licenses must submit an application to the state as stipulated in KRS 243.380 as amended effective June 25, 2013.

Section 6. That Section 9-82 **Submittal of application** is hereby amended to read as follows:

An applicant for license under this article shall file with the city alcoholic beverage control administrator a copy of his state license application containing the information required by KRS 243.380 as amended effective June 25, 2013 and KRS 243.390. The city application shall include the consent of the applicant permits the city ABC 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 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 ABC administrator within 36 hours.

Section 7. That Section 9-83 **Causes for refusal to issue or renew license; suspension or revocation of license** shall be amended to read as follows:

- (c) *Appeals.* Appeals may be taken from decisions of the city ABC administrator to the state alcoholic beverage control board according to the provisions of KRS 241.200 as amended effective June 25, 2013 and KRS 243.550.

Section 8. That Section 9-84 **Approval or denial of application** shall be amended to read as follows:

- (a) If upon review of the application, the city ABC administrator determines that the applicant as complied with all requirements of the alcoholic beverage control law, as well as all regulatory provisions of this article, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220 ~~and KRS 242.185(6)~~, that a license may be issued within the rules fixed by the state alcoholic beverage control board, and that there are no causes for denial of the license, the city ABC administrator shall approve the application.

Section 9. That Section 9-92 **Hours of sale** shall be amended to read as follows:

- (a) *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 each weekday. ~~However, sales may not be conducted 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 area 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.

Section 10. That Section 9-103 **Persons whom licenses may not employ** shall be amended to read as follows:

- (a) A person holding any city license shall not knowingly employ in connection with his or her business any person who:

- (1) Has been convicted of any felony within the last two years.
- (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two years.
- (3) Is under the age of 20 years, unless the person is employed in a capacity that does not involve the sale or serving alcoholic beverages.
- (4) Within two years prior to the date of his employment, has had any license issued under KRS 243.020, as amended effective June 25, 2013 to KRS 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

Section 11. That Section 9-104 **Retail premises not to be disorderly** shall be amended to read as follows:

- ~~(a) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.~~
- (a) A retail licensee, a patron, or the licensee's agents, servants or employees shall not cause, suffer or permit the licensed premises to be disorderly.
- ~~(b) Act, which constitute disorderly premises, consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:~~
- (b) Acts, which constitute disorderly premises, consist of causing, suffering, or permitting patrons, the licensee, or the licensee's servants, agents or employees to cause public inconvenience, annoyance or alarm or create a risk through:
 - (1) Engaging in fighting or in violent, tumultuous or threatening behavior; or
 - (2) Making unreasonable noise; or

- (3) Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or
- ~~(4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or~~
- ~~(5) Conducting promotional efforts that are not customary or usual for a restaurant operation (e.g., wet t-shirt contest).~~
- (4) Creating a public nuisance; or
- (5) Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or
- (6) Failing to maintain the minimum health, fire, safety or sanitary standards established by the state or a local government, or by state administrative regulations, for the licensed premises.

Section 12. That all ordinances or parts thereof in conflict herewith are deemed void and held for naught.

Section 13. That this Ordinance will become in full force and effect from and after its approval, adoption and publication.

APPROVED:

Teresa Cantrell, Mayor
City of Mayfield, Kentucky

ATTEST:

Tamie Johnson, City Clerk
City of Mayfield, Kentucky

Passed on 1st reading the 4th day of November, 2013.

Approved on the 2nd reading the 9th day of December, 2013.

Published in the *Mayfield Messenger* on December 10, 2013.

ORDINANCE 2-05

"AN ORDINANCE AMENDING ORDINANCE 23 - 03 , SECTIONS 9-105(A) AND 9-105(B): MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING; REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY LIMITS OF MAYFIELD, KENTUCKY"

WHEREAS, the City of Mayfield has previously passed Ordinance 23-03 regulating the sale of alcoholic beverages within the City Limits of Mayfield, Kentucky; and

WHEREAS, to insure that all sales of alcoholic beverages within the City of Mayfield are made in a responsible and educated manner, the City now desires to incorporate changes in the mandatory training required by Ordinance 23-03.

NOW THEREFORE, BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAYFIELD, KENTUCKY AS FOLLOWS TO WIT.

SECTION 1: That Sections 9-105-(A&B) "MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING" of Ordinance 23-03 are hereby amended to read as follows:

Sec. 9-105 Mandatory Responsible Beverage Service Training

- (A) ~~All persons employed as managers in the selling and serving of alcoholic beverages shall participate in and complete a City-approved responsible beverage training program. For such a program to be approved by the City, it must effectively train participants in the identification of false documents and recognition of characteristics of intoxication. The City will not require enrollment in a specific class, but only that the training be obtained from a recognized program meeting the goals presented in this ordinance.~~
- (B) ~~All persons required to complete training, under paragraph (A) above, shall complete that training within one hundred eighty (180) days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in responsible beverage service training, by a City approved program not less than once every three years thereafter.~~

Sec. 9-105 Mandatory Responsible Beverage Service Training

- (A) **All persons employed by restaurants licensed to sell alcoholic beverages by the drink shall before participating in the selling and serving of, or taking orders for alcoholic**

beverages, complete a City-approved responsible beverage training program. For such a program to be approved by the City, it must effectively train participants in the identification of false documents and recognition of characteristics of intoxication. The City will not require enrollment in a specific class, but only that the training be obtained from a recognized program meeting the goals presented in this ordinance.

- (B) All Licensed restaurants employing persons required to complete training under paragraph (A) above, shall be responsible for all employees completing their training within one hundred twenty (120) days of the adoption date of this ordinance. Following the one hundred twenty (120) day grace period for compliance, any new employee shall have the required training prior to engaging in the selling and serving of, or taking orders for alcoholic beverages. All persons completing the training required by this section shall be re-certified in responsible beverage service training, by a City approved program not less than once every three years thereafter.**

SECTION 2: That this Ordinance shall become effective after its adoption and publication in the Mayfield Messenger.

Approved on first reading on March 14th, 2005.

Adopted on second reading on April 11, 2005

ATTEST:

APPROVED:

MIKE CURRY, CITY CLERK
CITY OF MAYFIELD, KY

ARTHUR BYRN, MAYOR
CITY OF MAYFIELD, KY

1005

Mayfield**ARTICLE III. ALCOHOLIC BEVERAGES****DIVISION 1. GENERALLY****Sec. 9-63. Short title.**

This article shall be known and may be cited as the alcoholic beverage ordinance of the City of Mayfield.

(Ord. No. 23-03, 1-12-04)

Sec. 9-64. Definitions.

As used in this article, unless the context clearly indicates or requires a different meaning, the words and terms defined in KRS 241.010, as amended in House Bill 466, shall apply, which shall include the definition of "caterer."

(Ord. No. 23-03, 1-12-04; Ord. No. 11-04, § 1, 9-13-04)

Sec. 9-65. Incorporation of state law.

(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 article and all statutes and regulations of the state applicable thereto. Penalty, see section 9-109.

(Ord. No. 23-03, 1-12-04)

Sec. 9-66. Scope of coverage.

(a) This article 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 article 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 of the city or of any other statutes of the state relating to violations pertaining to alcoholic beverages.

(Ord. No. 23-03, 1-12-04)

DIVISION 2. ADMINISTRATION AND CONTROL

Sec. 9-67. Alcoholic beverage control administrator.

The duties of the city alcoholic beverage control (ABC) administrator shall be assigned to the office of the mayor who shall have the power to designate additional city officials to assist in the responsibilities of the office. The local ABC administrator and/or his designee shall have the power and authority to promulgate such regulations as may be necessary to implement this article.

(Ord. No. 23-03, 1-12-04)

Sec. 9-68. Oath and bond of local ABC administrator and employees.

(a) Each ABC administrator before entering upon his duties as such, shall take the oath prescribed in section 228 of the Constitution, and shall execute a bond with a good corporate surety in the amount of not less than \$1,000.00.

(b) Each ABC administrator may require any city employee under his supervision to execute a similar bond in such amount, as he deems necessary.

(Ord. No. 23-03, 1-12-04)

Sec. 9-69. Functions, duties and powers.

(a) The functions of the city ABC administrator shall be the same with respect to the city license and regulations, as the functions of the Kentucky Alcoholic Beverage Control Board ("board") with respect to state licenses and regulations, as provided in KRS 241.060, except that no regulation of the ABC administrator shall be less stringent than the statutes relating to alcoholic beverage control, or the regulations of the board. No regulation of the ABC administrator shall become effective until approved by the board.

(b) The ABC 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 ABC administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this article.

(Ord. No. 23-03, 1-12-04)

Sec. 9-70. Police power.

The city ABC administrator and his designee shall have the full police powers of law enforcement officers, and their jurisdiction shall be coextensive with the boundaries of the city. They, along with any City of Mayfield law enforcement officer, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked, without first obtaining a search warrant. City law enforcement officers shall have full police powers while performing any such inspections.

(Ord. No. 23-03, 1-12-04)

Sec. 9-71. Right of inspection.

The city ABC administrator, his designee and City of Mayfield law enforcement officers shall have available at all reasonable times for their inspection all books and records required to be

maintained by licensees under KRS 244.150 and the city ABC administrator shall receive copies of all reports submitted by licensee to the state alcoholic beverage control board.

(Ord. No. 23-03, 1-12-04)

Sec. 9-72. Appeals from city ABC administrator.

Appeals from the order of the city ABC administrator may be taken to the state alcoholic beverage control board by filing with the board, within 30 days, a certified copy of the orders of the city ABC administrator. The board shall hear matters at issue as upon an original proceeding.

(Ord. No. 23-03, 1-12-04)

DIVISION 3. LICENSE AND TAXES

Sec. 9-73. License required for sale.

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverage, 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 article and all statutes of Kentucky and regulations adopted pursuant to this article.

(Ord. No. 23-03, 1-12-04)

Sec. 9-74. Types of license; fees.

(a) *Limited restaurant by the drink license.* The city shall have the power and authority to issue licenses for the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of 100 persons inside the building and derive a minimum of 70 percent of their annual gross receipts from the sale of food. The fee for this city license will be \$1,000.00 per year.

(b) *Caterers licenses.* The city shall have the power and authority to issue license for the sale of alcoholic beverages by caterers which derive a minimum of 70 percent of their gross annual receipts from the sale of foods. The caterer shall also be required to maintain records in the same manner as all other retail licensees as set out in this article and the applicable Kentucky Revised Statutes. A caterers license may be issued as follows: As a primary license with a city license fee of \$1,000.00 per year.

(c) The city license fee for the sale of alcoholic beverages during extended hours will be \$0.00 per year.

(d) The city license fee for the sale of alcoholic beverages on Sunday will be \$0.00 per year.

(Ord. No. 23-03, 1-12-04; Ord. No. 11-04, § 2, 9-13-04)

Sec. 9-75. Date licenses expire; proration.

All licenses issued by the city shall be valid for a period of no more than one year. All licenses shall expire on March 31 of each year. Applications for renewal are to be filed with the city at least 15 days prior to expiration. When any person applies for a new license he shall be charged the full fee for the respective license if six months or more remain before the license is due to be renewed and one-

half the fee if less than six months remain before the license is due to be renewed. In the event any licensee shall cease doing business for any reason, no refund of the city license fee shall be granted.

(Ord. No. 23-03, 1-12-04)

Sec. 9-76. Persons who may not be licensed.

A person shall not become a licensee under this article for any of the reasons stated in KRS 243.100.

(Ord. No. 23-03, 1-12-04)

Sec. 9-77. Premises that may not be licensed for sales at retail.

No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease or a permit for a term of not less than the license period.

(Ord. No. 23-03, 1-12-04)

Sec. 9-78. Businesses authorized by retail drink license.

A limited restaurant alcoholic beverage by the drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers. A licensee may purchase wine in containers not smaller than 100 milliliters if the wine does not exceed 14 percent alcohol by volume. A licensee may buy mixed drinks in containers of a capacity not smaller than 355 milliliters if the mixed drinks contain a substantial proportion of carbonated water. A retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package.

(Ord. No. 23-03, 1-12-04)

Sec. 9-79. Public notice of intent to apply for license.

Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for a supplemental bar license shall before applying for a license advertise, by publication in *The Mayfield Messenger*, his or her intention to apply for a license as stipulated in KRS 243.360.

(Ord. No. 23-03, 1-12-04)

Sec. 9-80. Local administrator to first approve application.

An applicant for an alcoholic beverage license must have his city license approved by the city alcoholic beverage control administrator before they are eligible to apply for a state license.

(Ord. No. 23-03, 1-12-04)

Sec. 9-81. Application for state license.

All applicants for alcoholic beverage licenses must submit an application to the state as stipulated in KRS 243.380.

(Ord. No. 23-03, 1-12-04)

Sec. 9-82. Submittal of application.

An applicant for a license under this article 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 KRS 243.390. The city application shall include the consent of the applicant permitting the city ABC 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 ABC administrator within 36 hours.

(Ord. No. 23-03, 1-12-04)

Sec. 9-83. 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, KRS 243.490, KRS 243.500, as well as violation of any city ordinance regarding 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 to 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 ABC administrator may, in his discretion, approve a license to sell after receiving from the city clerk, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the city clerk 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) *Appeals.* Appeals may be taken from decisions of the city ABC administrator to the state alcoholic beverage control board according to the provisions of KRS 241.200 and KRS 243.550.

(d) *Failure to meet seating standards.* A cause for refusal to issue or renew a license and for suspension or revocation of a city license shall occur if the licensee ceases either to provide a minimum of 100 seats or derive a minimum of 70 percent of their annual gross receipts from the sale of food.

(Ord. No. 23-03, 1-12-04)

Sec. 9-84. Approval or denial of application.

(a) If upon review of the application, the city ABC administrator determines that the applicant has complied with all requirements of the alcoholic beverage control law, as well as all regulatory provisions of this article, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220 and KRS 242.185(6), that a license may be issued within the rules fixed by the state alcoholic beverage control board, and that there are no causes for denial of the license, the city ABC administrator shall approve the application.

(b) If the city ABC 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 city ABC 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 city ABC administrator. Any decision by the city ABC administrator on the application shall be subject to appeal as provided by law.

(Ord. No. 23-03, 1-12-04)

Sec. 9-85. Payment of fees, refund of fee.

(a) Upon approval of the application by the city ABC administrator, the applicant shall pay the amount of the license fee provided in this article 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 ABC administrator.

(b) If the payment of a license fee was erroneously made or the licenses are not issued, the city shall authorize the payment of the refundable amount.

(Ord. No. 23-03, 1-12-04)

Sec. 9-86. Issuance of city licenses.

The city licenses shall be issued and the fees collected by the city clerk. No license shall be issued by the clerk without the approval of the city ABC administrator. The license shall be in a form of a standard city business license and a business license category shall hereby be established as "Limited Restaurant Alcoholic by the Drink License" or "Caterers' Limited Alcoholic Beverage by the Drink License." The fees shall be those established in section 9-106 of this article and shall not replace the standard business license fees required in Ordinance No. 10-94 (sections 9-40--9-62 of this chapter).

(Ord. No. 23-03, 1-12-04; Ord. No. 11-04, § 3, 9-13-04)

Sec. 9-87. Posting of licenses.

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 clerk's office as part of the public record.

(Ord. No. 23-03, 1-12-04)

Sec. 9-88. Transfer, assign, or acquire existing license.

The transfer, assigning or acquisition of a city license shall be the same as provided for in state licenses in KRS 243.630, KRS 243.650, and KRS 243.660.

(Ord. No. 23-03, 1-12-04)

Sec. 9-89. Applicant to pay for own license.

The license fee for a city license shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued under these sections.

(Ord. No. 23-03, 1-12-04)

Sec. 9-90. Deposit of fees.

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

(Ord. No. 23-03, 1-12-04)

Sec. 9-91. License to become void if business dormant; license renewal.

(a) *Surrender of license and exceptions.* Any license under which no business is transacted during a period of 90 days shall become null and void. At the expiration of the 90-day period the license shall be surrendered to the city ABC 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 ABC administrator to the licensee, the licensee shall immediately notify the city ABC administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the city ABC administrator and a fee shall be due and payable to the city for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(b) *Applications based on pending construction or development.* Applications approved by the city ABC administrator and based on pending construction or development on the premises shall be null and void after 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. The ABC administrator may grant extensions, as he deems appropriate in exercise of his sound discretion based on facts and circumstance surrounding each request.

(c) *Renewals; time for filing.* All renewal of licenses and payment of license fees must be on file with the city ABC administrator fifteen (15) days before the expiration of the license 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 ABC 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 licensee 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. No. 23-03, 1-12-04)

DIVISION 4. PROHIBITIONS, RESTRICTIONS AND REGULATIONS**Sec. 9-92. Hours of sale.**

(a) *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 each weekday. However, sales may not be conducted 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 area 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.

(b) *Sunday sales.* No alcoholic beverages may be sold or dispensed on Sundays, unless pursuant to paragraph (c) below.

(c) *New Year's Eve.* The licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs, provided that the appropriate licenses have been obtained from both the city and the state ABC commission. If New Year's Eve falls on Sunday, alcoholic beverages may be sold and dispensed after 5:00 p.m.; if New Year's Day falls on Sunday, then alcoholic beverages may be sold and dispensed until 2:00 a.m. on January 1; provided that in either instance, the appropriate licenses for Sunday sales and for extended sales must be obtained from both the city and the state ABC commission. In either event, there shall be no additional city license fee imposed.

(d) *Control of premises during closing hours.* During the closing hours, the premises of any license for the sale of alcoholic beverages by the drink 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.

(e) *Wholesale deliveries on Sundays prohibited.* There shall be no deliveries of alcoholic or malt beverages on Sunday.

(Ord. No. 23-03, 1-12-04)

Sec. 9-93. Hours of sale; exceptions; requirements.

The licensee 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. No. 23-03, 1-12-04)

Sec. 9-94. Food service requirement.

All license holders of a limited restaurant alcoholic beverage by the drink license shall be required to maintain food service during all hours that alcohol is served.

<http://library5.municode.com/default-test/DocView/10079/1/35/38?hilite=alcoholic;alcho...> 8/12/2009

(Ord. No. 23-03, 1-12-04)

Sec. 9-95. Confiscation authorized if violations occur.

If any alcoholic or malt beverages are found on the outside of the locked or closed off area of any licensed premises at any hours during which the licensee is prohibited by the state alcoholic beverage control act or by this article 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 article and the state alcoholic beverage control act and shall be grounds for revocation or suspension of the license. In addition to other penalties provided for the violation of this article, the city alcoholic beverage control administrator is hereby authorized to confiscate the alcoholic or malt beverages.

(Ord. No. 23-03, 1-12-04)

Sec. 9-96. Advertising restrictions.

(a) Signage which refers directly, or indirectly, to alcoholic beverages shall be limited to one two-square-foot sign, for each 50 square feet of glass window, that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters 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 windows of the licensed premises business price cards not larger than two and one-half 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 article.

(c) It shall be unlawful for a licensee under this article 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 article 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 article shall be in compliance with KRS 244.130.

(Ord. No. 23-03, 1-12-04)

Sec. 9-97. Treating prohibited.

No license holder shall give away any alcoholic beverage in any quantity for less than a full monetary consideration.

(Ord. No. 23-03, 1-12-04)

Sec. 9-98. Licensee to purchase from and sell only to persons authorized to sell or purchase.

(a) No licensee shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser

at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder of a special agent's or solicitor's license if such a license is required.

(b) No licensee shall sell, or agree to sell, any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agent's or solicitor's license.

(Ord. No. 23-03, 1-12-04)

Sec. 9-99. 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 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.

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

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

(4) Except as provided in subsection (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 for a felony within the preceding 12 months.

(Ord. No. 23-03, 1-12-04)

Sec. 9-100. Sale to person not providing for his family prohibited.

No licensee shall sell or agree to sell any alcoholic beverages or cause or permit any alcoholic beverage to be sold to any person who has been reported to the licensee by any court or by any officer acting at the direction of a court as having failed to make proper provision for his family.

Sec. 9-101. Licensee to display notice as to sale to minors; warning of dangers of drinking during pregnancy to be posted.

(a) Every retail licensee shall display at all times in a prominent place a printed card at least eight inches by 11 inches in size which shall show, in 30-point or larger type, substantially as follows: Persons under the age of 21 are subject to a fine up to \$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 purpose of purchasing or obtaining alcoholic beverages.

(b) All licensed retail vendors of alcoholic beverages shall post in prominent place easily seen by patrons a printed sign at least 11 inches by 14 inches in size, with letters at least one-inch

high, supplied by the alcoholic beverage control commission, and with gender-neutral language supplied by the cabinet for health services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(Ord. No. 23-03, 1-12-04)

Sec. 9-102. Minors not to possess or purchase liquor nor to misrepresent age; use of fraudulent identification.

(a) As used in KRS 244.083 and this section, premises has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages.

(b) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

(c) A person under 21 years of age shall not 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 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(d) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(e) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(Ord. No. 23-03, 1-12-04)

Sec. 9-103. Persons whom licensees may not employ.

(a) A person holding any city license shall not knowingly employ in connection with his or her business any person who:

(1) Has been convicted of any felony within the last two years.

(2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two years.

(3) Is under the age of 20 years, unless the person is employed in a capacity that does not involve the sale or serving alcoholic beverages.

(4) Within two years prior to the date of his employment, has had any license issued under KRS 243.020 to KRS 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(b) The provisions of paragraph (1) and (2) of subsection (a) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.

(c) Violation of this section shall subject both employer and employee to penalties provided in this article and shall be cause for revocation of license.

(Ord. No. 23-03, 1-12-04)

Sec. 9-104. Retail premises not to be disorderly.

- (a) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.
- (b) Acts, which constitute disorderly premises, consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:
- (1) Engaging in fighting or in violent, tumultuous or threatening behavior; or
 - (2) Making unreasonable noise; or
 - (3) Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or
 - (4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or
 - (5) Conducting promotional efforts that are not customary or usual for a restaurant operation (e.g., wet t-shirt contest).

(Ord. No. 23-03, 1-12-04)

Sec. 9-105. Mandatory responsible beverage service training.

- (a) All persons employed by restaurants licensed to sell alcoholic beverages by the drink shall before participating in the selling and serving of, or taking orders for alcoholic beverages, complete a city-approved responsible beverage training program. For such a program to be approved by the city, it must effectively train participants in the identification of false documents and recognition of characteristics of intoxication. The city will not require enrollment in a specific class, but only that the training be obtained from a recognized program meeting the goals presented in this article.
- (b) All licensed restaurants employing persons required to complete training under subsection (a) above, shall be responsible for all employees completing their training within 120 days of the adoption date of Ordinance No. 2-05 [April 11, 2005]. Following the 120-day grace period for compliance, any new employee shall have the required training prior to engaging in the selling and serving of, or taking orders for alcoholic beverages. All persons completing the training required by this section shall be recertified in responsible beverage service training, by a city approved program not less than once every three years thereafter.
- (c) Each restaurant licensed by this article must at all times that alcoholic beverages are being served have at least one person currently certified in responsible beverage service training, as required in subsections (a) and (b) above, on duty.
- (d) The manager of the restaurant shall be responsible for compliance with these requirements and shall maintain for inspection by the city ABC administrator a record on each employee that shall contain the pertinent training information.

(Ord. No. 23-03, 1-12-04; Ord. No. 2-05, § 1, 4-11-05)

DIVISION 5. REGULATORY LICENSE FEE**Sec. 9-106. 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 any licenses or fees imposed under the provisions of this article for the retail sale of alcohol.

(b) The regulatory license fee shall be six percent for the fiscal year beginning July 1, 2003, and continuing thereafter until amended or repealed.

(Ord. No. 23-03, 1-12-04)

Sec. 9-107. Payment.

Payment of such fee shall accompany forms approved for use by the ABC administrator and shall include a tabulation of both gross food sales and alcohol sales for the preceding month. The forms and payment shall be submitted to the city clerk 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 any fees required under the provisions of this article shall be deducted each month as a credit.

(Ord. No. 23-03, 1-12-04)

Sec. 9-108. Failure to pay; interest on late payment.

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

(b) Interest shall be assessed upon any past due payments at the rate of 12 per cent per annum.

(Ord. No. 23-03, 1-12-04)

Sec. 9-109. Penalty for nonpayment.

If the holder of any license shall fail to pay the regulatory license fee imposed by this section within ten days of the due date, an automatic penalty of \$50.00 shall be assessed for the first offense. An automatic penalty of \$100.00 shall be assessed on the second offense, and an automatic penalty of \$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 12-month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

(Ord. No. 23-03, 1-12-04)

Sec. 9-110. 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. The books and records shall be available at all reasonable times for inspection by the city alcoholic beverage control administrator or any authorized representative.

(Ord. No. 23-03, 1-12-04)

Sec. 9-111. Audit requirements.

The city alcoholic beverage control administrator may at his discretion require that a licensee make his records available to the city for the purpose of conducting an audit to verify compliance with the 70 per cent food sales requirement.

(Ord. No. 23-03, 1-12-04)

Sec. 9-112. Penalties for violation of article.

(a) Any person who violates any provision of this article 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 \$500.00.

(2) For any subsequent offense, a fine not to exceed \$500.00 or confinement in jail not more than six 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.

(Ord. No. 23-03, 1-12-04)

Secs. 9-113--9-140. Reserved.

ORDINANCE 11-04

"AN ORDINANCE AMENDING ORDINANCE 23 - 03 REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY LIMITS OF MAYFIELD, KENTUCKY"

WHEREAS, the 2004 General Assembly for the Commonwealth of Kentucky has made several changes in relation to ABC licensed caterers in House Bill 466; and

WHEREAS, the City of Mayfield has previously passed Ordinance 23 - 03 regulating the sale of alcoholic beverages within the City Limits of Mayfield, Kentucky; and

WHEREAS, the City now desires to incorporate the changes referred to above regarding caterers; and

WHEREAS, there are applications for Caterer's license now pending which require immediate action and therefore this ordinance should be passed on an emergency basis;

NOW THEREFORE, BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAYFIELD, KENTUCKY AS FOLLOWS TO WIT.

Section 1:

That Sec. 9 - 64 "DEFINITIONS" of Ordinance 23 - 03 is hereby amended to read as follows:

"As used in this Chapter, unless the context clearly indicates or requires a different meaning, the words and terms defined in Kentucky Revised Statute 241.010 as amended in House Bill 466 shall apply, which shall include the definition of "Caterer".

Section 2:

That Sec. 9 - 74 "LIMITED RESTAURANT ALCOHOL BY THE DRINK LICENSE; FEES" shall be amended to read as follows:

"Section 9 - 74, TYPES OF LICENSE; FEES;

- A. **Limited Restaurant by the Drink License** - The City shall have the power and authority to issue licenses for the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of 100 persons inside the building and derive a minimum of seventy (70%) percent of their annual gross receipts from the sale of food. The fee for this City License will be \$1,000.00 per year.
- B. **Caterers Licenses** - The City shall have the power and authority to issue license for the sale of alcoholic beverages by Caterers which derive a minimum of seventy (70%) percent of their gross annual receipts from the sale of foods. The caterer shall also be required to maintain records in the same manner as all other retail licensees as set in Ordinance 23 - 03 and the applicable Kentucky Revised Statutes. A caterers license may be issued as follows:

As a primary license with a city license fee of \$ 1,000.00 per year

C. The city license fee for the sale of alcoholic beverages during extended hours will be \$ -0- per year.

D. The City License Fee for the Sale of Alcoholic Beverages on Sunday will \$ -0- per year."

Section 3:

Section 9- 86; "ISSUANCE OF CITY LICENSE" as set forth in ordinance 23 -03 shall be amended to read as follows:

"The City Licenses shall be issued and the fees collected by the City Clerk. No license shall be issued by the Clerk without the approval of the City ABC Administrator. The license shall be in a form of a standard City Business License and a Business License category shall hereby be established as "Limited Restaurant Alcoholic by the Drink License" or "Caterers' Limited Alcoholic Beverage by the Drink License" The fees shall be those established in Section 9 106 of this chapter and shall not replace this standard business license's fees required in Ordinance 10 -94.

Section 4:

That except where specifically contraindicated by the nature of the Caterer's license, all other provisions of Ordinance 23 - 03 pertaining to administration and control, license, taxes and fees, prohibitions, restrictions and regulations and regulatory license's fees shall be applicable to a Caterer's licenses for the sale of alcoholic beverages.

Section 5:

That this Ordinance shall become effective on an emergency basis after its first reading and publication in the Mayfield Messenger.

ATTEST:

APPROVED:

**MIKE CURRY, CITY CLERK
CITY OF MAYFIELD, KY**

**ARTHUR BYRN, MAYOR
CITY OF MAYFIELD, KY**

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ALCOHOLIC
BEVERAGE CONTROL

ORDINANCE 5-04
AN ORDINANCE OF THE CITY OF MAYFIELD, KENTUCKY

**“AN ORDINANCE AMENDING ORDINANCE 23-03 OF THE CITY OF MAYFIELD
REGULATING THE SALE OF ALCOHOLIC BEVERAGES TO INCLUDE THE
REGULATION OF THE GOLF COURSE OF MAYFIELD GOLF AND COUNTRY CLUB.”**

WHEREAS, KRS 242.123 allows a local option election in a precinct for the limited sale of alcoholic beverages by a golf course within that precinct; and

WHEREAS, pursuant to KRS 242.123 an election was held on March 16, 2004, in Ward 2 Precinct 1, with 229 votes being in favor of the sale of alcoholic beverages by the drink at the Mayfield Golf and Country Club, with 43 votes being opposed; and

WHEREAS, the results of the election were certified on March 25, 2004; and

WHEREAS, Mayfield Golf and Country Club will be the only holder of a golf course alcoholic beverage license in the City of Mayfield; and

WHEREAS, it will be in the best interest of Mayfield Golf and Country Club to be allowed to have Sunday sales of alcoholic beverages, enabling it to have more and better weekend golf tournaments and social events; and

WHEREAS, it will be in the best interest of the City of Mayfield to allow Sunday sales of alcoholic beverages by Mayfield Golf and Country Club by promoting economic development and tourism; and

WHEREAS, the facilities of Mayfield Golf and Country Club are not open to the general public and the adoption of an Ordinance permitting Sunday sales of alcoholic beverages would enhance the Club's ability to enforce regulations restricting possession of personal alcoholic beverages on its premises.

NOW THEREFORE, be it ordained by the City Council of the City of Mayfield, Kentucky, as follows:

Section 1. Mayfield Golf and Country Club is hereby granted the privilege of selling alcoholic beverages on Monday through Saturday from the hours of 6:00 a.m. until midnight, the same as allowed for other holders of licenses for the sale of alcoholic beverages in the City of Mayfield, Kentucky, as set forth under Ordinance 23-03.

Section 2. Mayfield Golf and Country Club is hereby granted the privilege of selling malt beverages on Sunday between the hours of 11:00 a.m. and 9:00 p.m. in accordance with KRS 244.480(3).

Section 3. Mayfield Golf and Country Club is hereby granted the privilege of selling distilled spirits and wine on Sunday between the hours of 1:00 p.m. and 9:00 p.m. in accordance with KRS 244.290(3)(b).

Section 4. Any violation of the alcoholic beverage Ordinance by Mayfield Golf and Country Club may result in the suspension of Sunday sales.

Section 5. In all other respects, Ordinance 23-04 is hereby affirmed.

Approved on first reading on April 12th, 2004.

Adopted on second reading on April 20th, 2004.

ATTEST:

APPROVED:

Mike Curry, City Clerk
City of Mayfield, Kentucky

Arthur Byrn, Mayor
City of Mayfield, Kentucky

EXECUTIVE ORDER 1-04
CITY OF MAYFIELD, KENTUCKY

WHEREAS, in accordance with the authority given the Mayor through Ordinance 23-03 of the City of Mayfield, Kentucky,

BE IT ORDERED BY THE MAYOR OF THE CITY OF MAYFIELD, that the City Clerk of the City of Mayfield has been designated to assist with the responsibilities of the office of City Alcoholic Beverage Control Administrator, and shall have the power and authority to promulgate such regulations as may be necessary to implement this ordinance.

THIS THE 16TH DAY OF FEBRUARY, 2004.

A handwritten signature in black ink, appearing to read 'Arthur Byrn', written over a horizontal line.

Arthur Byrn, Mayor
City of Mayfield, Kentucky

ORDINANCE 23-03

**AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC
BEVERAGES WITHIN THE CITY LIMITS OF MAYFIELD, KENTUCKY.**

Whereas, an election was held on November 4, 2003, pursuant to KRS 242.185(6) as to whether the City of Mayfield would permit the limited sale of alcoholic beverages within the city limits of Mayfield, and

Whereas, a majority of the citizens of the City of Mayfield have voted in favor of the limited sale of alcoholic beverages, and

Whereas, the City may impose certain restrictions, regulations, and license fees upon such retail establishments that wish to sell alcoholic beverages, and

Now Therefore, Be It Hereby Ordained by the City Council of the City of Mayfield, Kentucky, as follows, to-wit:

Chapter 17 of the Code of Ordinances of the City of Mayfield, Kentucky, shall read as follows:

ARTICLE III. ALCOHOLIC BEVERAGE CONTROL

General Provisions

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Sec. 9-64	Definitions	Pg. 4
Sec. 9-65	Incorporation of State Law	Pg. 4
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Administration and Control

Sec. 9-67	Alcoholic Beverage Control Administrator	Pg. 4
Sec. 9-68	Oath And Bond Of The Local Alcoholic Beverage Officer And Employees	Pg. 4
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Sec. 9-70	Police Power	Pg. 5
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License, Taxes and Fees

Sec. 9-73	License Required For Sale	Pg. 6
Sec. 9-74	Limited Restaurant Alcoholic Beverage By The Drink License	Pg. 6
Sec. 9-75	Date Licenses Expire; Prorating	Pg. 6
Sec. 9-76	Persons Who May Not Be Licensed	Pg. 6
Sec. 9-77	Premises That may Not Be Licensed For Sales At Retail	Pg. 7
Sec. 9-78	Business Authorized By Retail Drink License	Pg. 7
Sec. 9-79	Public Notice Of Intent To Apply For License	Pg. 7
Sec. 9-80	Local Administrator To First Approve Application	Pg. 7
Sec. 9-81	Applications For State License	Pg. 7
Sec. 9-82	Submittal Of Application	Pg. 7
Sec. 9-83	Cause For Refusal Of License, Suspension Or Revocation Of License	Pg. 8
Sec. 9-84	Approval Or Denial Of Application	Pg. 8
Sec. 9-85	Payment Of Fees, Refund Of Fees	Pg. 9
Sec. 9-86	Issuance Of City License	Pg. 9
Sec. 9-87	Posting Of License	Pg. 9
Sec. 9-88	Transfer Or Acquisition Of License	Pg. 9
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Sec. 9-90	Deposit Of Fees, Fines To General Fund	Pg. 10
Sec. 9-91	License To Become Void If Business Dormant; License Renewal	Pg. 10

Prohibitions, Restrictions And Regulations

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Sec. 9-93	Hours Of Sale, Exceptions, Requirements	Pg. 12
Sec. 9-94	Food Service Requirements	Pg. 12
Sec. 9-95	Confiscation Authorized If Violations Occur	Pg. 12
Sec. 9-96	Advertising Restrictions	Pg. 12
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Sec. 9-98	License To Purchase From And Sell Only To Persons Authorized To Sell Or Purchase	Pg. 13
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Sec. 9-100	Sale To Person Not Providing For His Family Prohibited	Pg. 13
Sec. 9-101	Licensee To Display Notice As To Sales To Minors; Warning Of Dangers Of Drinking During Pregnancy To Be Posted	Pg. 14
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Sec. 9-103	Persons Whom Licensees May Not Employ	Pg. 15
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Regulatory License Fee

Sec. 9-106	Regulatory License Fee Imposed	Pg. 16
Sec. 9-107	Payment	Pg. 16
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Sec. 9-110	Adequate Record Keeping Requirement	Pg. 17
Sec. 9-111	Audit Requirements	Pg. 18
Sec. 9-112	Penalties	Pg. 18

Sec. 9-63 SHORT TITLE

This Chapter shall be known and may be cited as the Alcoholic Beverage Ordinance of the City of Mayfield.

Sec. 9-64 DEFINITIONS

As used in this chapter, unless the context clearly indicates or requires a different meaning, the words and terms defined in Kentucky Revised Statute 241.010 shall apply.

Sec. 9-65 INCORPORATION OF STATE LAW

- (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 Section 9-109.

Sec. 9-66 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 of the city or of any other statutes of the state relating to violations pertaining to alcoholic beverages.

Administration and Control

Sec. 9-67 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

The duties of the City Alcoholic Beverage Control (ABC) Administrator shall be assigned to the office of the Mayor who shall have the power to designate additional city officials to assist in the responsibilities of the office. The local ABC Administrator and/or his designee shall have the power and authority to promulgate such regulations as may be necessary to implement this chapter.

Sec. 9-68 OATH AND BOND OF LOCAL ABC ADMINISTRATOR AND

EMPLOYEES

- (A) Each ABC Administrator before entering upon his duties as such, shall take the oath prescribed in section 228 of the Constitution, and shall execute a bond with a good corporate surety in the amount of not less than one thousand dollars (\$1,000.00).
- (B) Each ABC Administrator may require any city employee under his supervision to execute a similar bond in such amount, as he deems necessary.

Sec. 9-69 FUNCTIONS, DUTIES AND POWERS

- (A) The functions of the City ABC Administrator shall be the same with respect to the city license and regulations, as the functions of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations, as provided in KRS 241.060, except that no regulation of the ABC Administrator shall be less stringent than the statutes relating to alcoholic beverage control, or the regulations of the Board. No regulation of the ABC Administrator shall become effective until approved by the Board.
- (B) The ABC 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 ABC 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.

Sec. 9-70 POLICE POWER

The City ABC Administrator and his designee shall have the full police powers of law enforcement officers, and their jurisdiction shall be co-extensive with the boundaries of the City. They, along with any City of Mayfield law enforcement officer, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked, without first obtaining a search warrant. City law enforcement officers shall have full police powers while performing any such inspections.

Sec. 9-71 RIGHT OF INSPECTION

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

Sec. 9-72 APPEALS FROM CITY ABC ADMINISTRATOR

Appeals from the order of the City ABC Administrator may be taken to the state Alcoholic Beverage Control Board by filing with the board, within thirty (30) days, a certified copy of the orders of the City ABC Administrator. The board shall hear matters at issue as upon an original proceeding.

License and Taxes

Sec. 9-73 LICENSE REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverage, 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.

Sec. 9-74 LIMITED RESTAURANT ALCOHOLIC BEVERAGE BY THE DRINK LICENSE; FEES

- (A) The City shall have the power and authority to issue licenses for the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons inside the building and derive a minimum of seventy percent (70%) of their annual gross receipts from the sale of food. The fee for this city license will be \$1,000.00 per year.
- (B) The City license fee for the sale of alcoholic beverages during extended hours will be \$0.00 per year.
- (C) The City license fee for the sale of alcoholic beverages on Sunday will be \$0.00 per year.

Sec. 9-75 DATE LICENSES EXPIRE; PRORATION

All licenses issued by the City shall be valid for a period of no more than one year. All licenses shall expire on March 31 of each year. Applications for renewal are to be filed with the City at least fifteen (15) days prior to expiration. When any person applies for a new license he shall be charged the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. In the event any licensee shall cease doing business for any reason, no refund of the City license fee shall be granted.

Sec. 9-76 PERSONS WHO MAY NOT BE LICENSED

A person shall not become a licensee under this chapter for any of the reasons stated in KRS 243.100.

Sec. 9-77 PREMISES THAT MAY NOT BE LICENSED FOR SALES AT RETAIL

No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease or a permit for a term of not less than the license period.

Sec. 9-78 BUSINESSES AUTHORIZED BY RETAIL DRINK LICENSE

A limited restaurant alcoholic beverage by the drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers. A licensee may purchase wine in containers not smaller than one hundred (100) milliliters if the wine does not exceed fourteen percent 14% alcohol by volume. A licensee may buy mixed drinks in containers of a capacity not smaller than three hundred fifty-five (355) milliliters if the mixed drinks contain a substantial proportion of carbonated water. A retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package.

Sec. 9-79 PUBLIC NOTICE OF INTENT TO APPLY FOR LICENSE

Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for a supplemental bar license shall before applying for a license advertise, by publication in The Mayfield Messenger, his or her intention to apply for a license as stipulated in KRS 243.360.

Sec. 9-80 LOCAL ADMINISTRATOR TO FIRST APPROVE APPLICATION

An applicant for an alcoholic beverage license must have his city license approved by the City Alcoholic Beverage Control Administrator before they are eligible to apply for a state license.

Sec. 9-81 APPLICATION FOR STATE LICENSE

All applicants for alcoholic beverage licenses must submit an application to the state as stipulated in KRS 243.380.

Sec. 9-82 SUBMITTAL OF APPLICATION

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 ABC 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 ABC Administrator within thirty-six (36) hours.

Sec. 9-83 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, 243.500, as well as violation of any city ordinance regarding 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 to 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 ABC Administrator may, in his discretion, approve a license to sell after receiving from the City Clerk, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Clerk 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) Appeals. Appeals may be taken from decisions of the City ABC Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.
- (D) Failure to Meet Seating Standards. A cause for refusal to issue or renew a license and for suspension or revocation of a city license shall occur if the licensee ceases either to provide a minimum of one hundred (100) seats or derive a minimum of seventy percent (70%) of their annual gross receipts from the sale of food.

Sec. 9-84 APPROVAL OR DENIAL OF APPLICATION

- (A) If upon review of the application, the City ABC 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 and 242.185(6), that a license may be issued within the rules fixed by the State Alcoholic Beverage Control Board, and that there are no causes for denial of the license, the City ABC Administrator shall approve the application.

- (B) If the City ABC 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 City ABC 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 City ABC Administrator. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided by law.

Sec. 9-85 PAYMENT OF FEES, REFUND OF FEE

Upon approval of the application by the City ABC 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 ABC Administrator.

If the payment of a license fee was erroneously made or the licenses are not issued, the City shall authorize the payment of the refundable amount.

Sec. 9-86 ISSUANCE OF CITY LICENSES

The City licenses shall be issued and the fees collected by the City Clerk. No license shall be issued by the clerk without the approval of the City ABC Administrator. The license shall be in form of a standard City Business License and a business license category shall hereby be established as "Limited Restaurant Alcoholic Beverage by the Drink License". The fees shall be those established in Section 9-106 of this chapter and shall not replace the standard business license fees required in Ordinance 10-94.

Sec. 9-87 POSTING OF LICENSES

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 Clerk=s office as part of the public record.

Sec. 9-88 TRANSFER, ASSIGN, OR ACQUIRE EXISTING LICENSE

The transfer, assigning or acquisition of a city license shall be the same as provided for in state licenses in KRS 243.630, 243.650, and 243.660.

Sec. 9-89 APPLICANT TO PAY FOR OWN LICENSE

The license fee for a city license shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued under these sections.

Sec. 9-90 DEPOSIT OF FEES

All moneys 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.

Sec. 9-91 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL

- (A) 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 ABC 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 ABC Administrator to the licensee, the licensee shall immediately notify the City ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City ABC Administrator and a fee shall be due and payable to the City for the period the license was in dormancy in the same amount due had the license remained active for the same period.
- (B) Applications based on pending construction or development Applications approved by the City ABC 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. The ABC Administrator may grant extensions, as he deems appropriate in exercise of his sound discretion based on facts and circumstance surrounding each request.
- (C) Renewals: Time for filing. All renewal of licenses and payment of license fees must be on file with the City ABC Administrator fifteen (15) days before the expiration of the license 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 ABC 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 licensee 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.

Prohibitions, Restrictions and Regulations

Sec. 9-92

HOURS OF SALE

- (A) 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 each weekday. However, sales may not be conducted 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 area 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.
- (B) No alcoholic beverages may be sold or dispensed on Sundays, unless pursuant to paragraph (C) below.
- (C) The licensee may sell and dispense alcoholic beverages on New Year=s Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year=s Eve occurs, provided that the appropriate licenses have been obtained from both the City and the State ABC Commission. If New Year=s Eve falls on Sunday, alcoholic beverages may be sold and dispensed after 5:00 p.m.; if New Year=s Day falls on Sunday, then alcoholic beverages may be sold and dispensed until 2:00 a.m. on January 1; provided that in either instance, the appropriate licenses for Sunday sales and for extended sales must be obtained from both the City and the State ABC Commission. In either event, there shall be no additional City license fee imposed.
- (D) Control of Premises During Closing Hours. During the closing hours, the premises of any license for the sale of alcoholic beverages by the drink 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.
- (E) Wholesale Deliveries on Sundays Prohibited. There shall be no deliveries of alcoholic or malt beverages on Sunday.

Sec. 9-93 HOURS OF SALE; EXCEPTIONS; REQUIREMENTS

The licensee 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.

Sec. 9-94 FOOD SERVICE REQUIREMENT

All license holders of a Limited Restaurant Alcoholic Beverage By The Drink License[®] shall be required to maintain food service during all hours that alcohol is served.

Sec. 9-95 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic or malt beverages are found on the outside of the locked or closed off area 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. 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.

Sec. 9-96 ADVERTISING RESTRICTIONS

- A) Signage which refers directly, or indirectly, to alcoholic beverages shall be limited to one (1) two (2) square foot sign, for each fifty (50) square feet of glass window, that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters 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 windows 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 a licensee under this chapter 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 chapter shall be in compliance with KRS 244.130.

Sec. 9-97 "TREATING" PROHIBITED

No license holder shall give away any alcoholic beverage in any quantity for less than a full monetary consideration.

Sec. 9-98 LICENSEE TO PURCHASE FROM AND SELL ONLY TO PERSONS AUTHORIZED TO SELL OR PURCHASE

- (A) No licensee shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder of a special agent=s or solicitor=s license if such a license is required.
- (B) No licensee shall sell, or agree to sell, any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agent=s or solicitor=s license.

Sec. 9-99 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 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) A 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 Section C 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 for a felony within the preceding twelve (12) months.

Sec. 9-100 SALE TO PERSON NOT PROVIDING FOR HIS FAMILY PROHIBITED

No licensee shall sell or agree to sell any alcoholic beverages or cause or permit any alcoholic beverage to be sold to any person who has been reported to the licensee by any court or by any officer acting at the direction of a court as having failed to make proper provision for his family.

Sec. 9-101 LICENSEE TO DISPLAY NOTICE AS TO SALE TO MINORS; WARNING OF DANGERS OF DRINKING DURING PREGNANCY TO BE POSTED

- (A) 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 purpose of purchasing or obtaining alcoholic beverages.
- (C) All licensed retail vendors of alcoholic beverages shall post in prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

Sec. 9-102 MINORS NOT TO POSSESS OR PURCHASE LIQUOR NOR TO MISREPRESENT AGE-USE OF FRAUDULENT IDENTIFICATION

- (A) As used in KRS 244.083 and this section; Premises has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages.
- (B) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
- (C) A person under 21 years of age shall not 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

21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

- (D) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.
- (E) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

Sec. 9-103 PERSONS WHOM LICENSEES MAY NOT EMPLOY

- (A) A person holding any city license shall not knowingly employ in connection with his or her business any person who:
 - (1) Has been convicted of any felony within the last two(2) years.
 - (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years.
 - (3) Is under the age of twenty (20) years, unless the person is employed in a capacity that does not involve the sale or serving alcoholic beverages.
 - (4) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.
- (B) The provisions of paragraph (1) and (2) of subsection (A) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.
- (C) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

Sec. 9-104 RETAIL PREMISES NOT TO BE DISORDERLY

- (A) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.
- (B) Acts, which constitute disorderly premises, consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:
 - (1) Engaging in fighting or in violent, tumultuous or threatening behavior, or
 - (2) Making unreasonable noise; or
 - (3) Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or
 - (4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or

(5) Conducting promotional efforts that are not customary or usual for a restaurant operation (e.g. wet t-shirt contest).

Sec. 9-105 Mandatory Responsible Beverage Service Training

- (A) All persons employed as managers in the selling and serving of alcoholic beverages shall participate in and complete a City-approved responsible beverage training program. For such a program to be approved by the City, it must effectively train participants in the identification of false documents and recognition of characteristics of intoxication. The City will not require enrollment in a specific class, but only that the training be obtained from a recognized program meeting the goals presented in this ordinance.
- (B) All persons required to complete training, under paragraph (A) above, shall complete that training within one hundred eighty (180) days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in responsible beverage service training, by a City approved program not less than once every three years thereafter.
- (C) Each restaurant licensed by this ordinance must at all times that alcoholic beverages are being served have at least one person currently certified in responsible beverage service training, as required in paragraphs (A) and (B) above, on duty.
- (D) The manager of the restaurant shall be responsible for compliance with these requirements and shall maintain for inspection by the City ABC Administrator a record on each employee that shall contain the pertinent training information.

Regulatory License Fee

Sec. 9-106 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 any licenses or fees imposed under the provisions of this chapter for the retail sale of alcohol.

(B) The regulatory license fee shall be six percent (6%) for the fiscal year beginning July 1, 2003 and continuing thereafter until amended or repealed.

Sec. 9-107 PAYMENT

Payment of such fee shall accompany forms approved for use by the ABC Administrator and shall include a tabulation of both gross food sales and alcohol sales for the preceding month. The forms and payment shall be submitted to the City Clerk 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 any fees required under the provisions of this chapter shall be deducted each month as a credit.

Sec. 9-108 FAILURE TO PAY; INTEREST ON LATE PAYMENT

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

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

Sec. 9-109 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.

Sec. 9-110 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. The books and records shall be available at all reasonable times for inspection by the City Alcoholic Beverage Control Administrator or any authorized representative.

Sec. 9-111 AUDIT REQUIREMENTS

The City Alcoholic Beverage Control Administrator may at his discretion require that a licensee make his records available to the City for the purpose of conducting an audit to verify compliance with the seventy percent (70%) food sales requirement.

Sec. 9-112 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 and 00/100 Dollars (\$500.00)
 - (2) For any subsequent offense a fine not to exceed Five Hundred and 00/10 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.

ARTHUR BYRN, MAYOR

ATTEST:

MIKE CURRY, CITY CLERK