

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

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**GENERAL PROVISIONS**

§ 112.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly *indicates* or requires a different meaning.

**ALCOHOL, ALCOHOLIC BEVERAGE, BUILDING CONTAINING LICENSED PREMISES, CONVICTED, CONVICTION, DISTILLED SPIRITS or SPIRITS, DISTRIBUTOR, MALT BEVERAGE, PREMISES, RETAIL SALE RETAILER, SALE, SELL, WHOLESALE SALE, WHOLESALER, and WINE** shall have the same definitions as set forth in KRS Chapter 241.

**LICENSE** Any license issued pursuant to this chapter.

**LICENSEE** Any person, partnership, corporation, or other business entity to which a license has been issued pursuant to this chapter.  
(Ord. 83-6, passed 3-23-83)

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#### § 112.02 HOURS WHEN SALES PERMITTED.

A licensee may sell alcoholic beverages or do any act authorized by the licensee's license with respect to the sale of alcoholic beverages only during the hours between 6:00 a.m. and midnight, prevailing time, except that no retail sale shall be made during the hours the polls are open on any election day, on Sundays, or Christmas. (Ord. 83-6, passed 3-23-83) Penalty, see § 112.99

#### § 112.03 ADVERTISING AND SIGN RESTRICTIONS.

No signs referring to alcoholic beverages directly or indirectly visible from the outside, except as that reference may be contained *in* the name of the business establishment, shall be permitted. No flashing lights or neon lamps shall be used to illuminate *signs* unless approved by the Beautification Committee of the city as promoting the aesthetic quality of the city. In particular, Chapter 155 the zoning code of the city, but not by way of limitation, as it regards signs, shall apply to all licensed premises.

(Ord. 83-6, passed 3-23-83) Penalty, see § 112.99

### *LICENSING*

#### § 112.15 LICENSE REQUIRED.

No person, firm, or corporation shall do any act authorized by any kind of license provided for in this chapter with respect to the storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless the person, firm, or corporation holds the kind of license from the city which authorizes such act. No person, firm, or corporation which conducts a place of business patronized by the public and which does not hold a license to sell distilled spirits, and wine or malt beverages shall permit any person to sell, barter, loan, give away, or drink distilled spirits, wine, or malt beverages on the premises of his place of business.

(Ord. 83-6, passed 3-23-83) Penalty, see § 112.99

§ 112.16 TYPES OF LICENSES; FEES.

(A) The following lands of distilled spirits and wine licenses and malt beverage licenses may be issued by the city and the annual fees for each license shall be:

<i>Type of License</i>	<i>Fee</i>
<b><i>Distilled Spirits and wine Licenses</i></b>	
Distilled spirits and wine wholesaler's license	\$3,000.00
Distilled spirits and wine retail package license	600.00
Distilled spirits and wine retail drink license	600.00
Wine retail drink license	300.00
<b><i>Malt Beverage Licenses</i></b>	
Malt beverage distributor's license	\$400.00
Malt beverage retail package carry-out license	200.00
Malt beverage retail drink license	200.00

(B) The issuance of a distilled spirits and wine wholesaler's license, a distilled spirits and wine retail package license, a distilled spirits and wine retail drink license, and a malt beverage distributor's license shall authorize the licensee to do the acts authorized by the corresponding state license within the city limits, unless specifically limited by this chapter, an amendment hereto, or a rule or regulation of the city approved by a majority of a quorum of the City Council.

(C) A malt beverage retail package carry-out license shall authorize the licensee to purchase, receive, possess, and sell malt beverages at retail and only for consumption off the licensed premises. The licensee shall purchase only from licensed brewers or licensed distributors.

(D) A malt beverage retail drink license shall authorize the licensee to purchase, receive, possess, and sell malt beverages at retail for consumption on the licensed premises. The licensee shall purchase only from licensed brewers or licensed distributors. Unless the licensee holds a malt beverage retail package carry-out license, he shall not sell malt beverages by the package for consumption off the premises. A malt beverage retail drink license shall only be issued to a business for a location which receives 50% or more of its gross annual income from the sale of food consumed on the premises and has, and maintains, a minimum indoor seating capacity of 50 people.

(E) In the event the premises on which an applicant's business is to be conducted is located within 200 feet of any **school, hospital, church, public park, or playground**, the City Alcoholic Beverage Control Administrator shall, before granting any license, consider the affect on and from the surrounding area in the event the application was granted. Upon a determination that the granting of the license would probably harm or otherwise adversely affect or be affected by the surrounding area, the City Alcoholic Beverage Control Administrator may deny the application after a hearing held pursuant to § 112.23(B).

(F) Distilled spirits and wine retail package licenses shall be issued only for premises on which at least 75% of the gross revenues are derived from the sale of alcoholic beverages.

(G) A Distilled Spirits Retail Drink License permits only retail sale of distilled spirits by the drink for consumption on the licensed premises where sold, and not for resale in any form. This License is available only to hotels, motels or inns containing not less than 50 sleeping units and having dining facilities for not less than 100 persons or bona fide restaurants open to the general public having dining facilities for not less than 100 persons.

(Ord. 83-6, passed 3-23-83; Am. Ord. 83-10, passed 6-24-83) Statutory reference.

City licenses; fees, see KRS 243.070

#### § 112.17 ISSUANCE OF LICENSES; PAYMENT OF FEES.

Applications for the issuance or renewal of all licenses provided for in this chapter shall be made to the City Administrator. All applications shall include a complete copy of the application submitted for the corresponding state license together with all other information as may be designated by the City Alcoholic Beverage Control Administrator. All such forms and information shall be previously approved by a majority of a quorum of the City Council. All license fees collected pursuant hereto shall be paid to and collected by the Director of Finance.

(Ord. 83-6, passed 3-23-83) Statutory reference: *Issuance of city licenses, see KRS 243.610*

#### § 112.18 TERMS OF LICENSE.

(A) All licenses issued by the department, except special event or temporary licenses, shall be valid for a period of no more than a year. All licenses shall expire on June 30 of each year until the licensee is notified by the department that a renewal system with staggered dates has been implemented. The department shall promulgate administrative regulations establishing the year-round system for renewal of licenses. The system shall be designed to distribute the workload as uniformly as possible within the offices of the local administrators and the department.

(B) When any person applies for a new license authorized to be issued under KRS 243.020 to 243.670, he 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.

(C) The renewal by the department 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.  
KRS 243.090)

#### § 112.19 DISPLAY OF LICENSE.

(A) Before commencing or doing any business for the time for which a license has been issued, the license shall be posted and at all times displayed 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.

(B) No licensee shall post the license, or permit it to be posted, 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.

(Ord. 83-6, passed 3-23-83) Penalty,  
see § 112.99 Statutory reference:

*Posting of licenses, see KRS 243.620*

#### § 112.20 LOST OR DESTROYED LICENSES.

Whenever a license is lost or destroyed without the fault of the licensee or his agents or employees, a duplicate license shall be issued upon proof of loss satisfactory to the City Alcoholic Beverage Control Administrator and upon payment of a fee of \$1. (Ord. 83-6, passed 3-23-83)

#### § 112.21 STATE LICENSE REQUIRED.

(A) No license provided for hereunder shall be issued, renewed, or transferred to any person, firm, or corporation until the person, firm, or corporation shall have obtained the issuance, renewal, or transfer of the state license corresponding thereto. The state malt beverage retailer's license corresponds to the city malt beverage retail drink license. In each instance, the licensed premises covered by the city license must be the same as the licensed premises covered by the corresponding state license.

(B) The city license issued to any person, firm, or corporation shall remain valid only so long as the state license corresponding thereto, issued to the person, firm, or corporation, shall be valid. Any revocation, suspension, nonrenewal, or other action which makes the state license null and *void* shall operate to revoke, suspend, make nonrenewable, and thereby make null and *void* the city license corresponding thereto for the same period of time. Any city license which is revoked, suspended, not renewed, or so made invalid shall be immediately surrendered to the City Alcoholic Beverage Control Administrator.

(Ord. 83-6, passed 3-23-83) Penalty, see § 112.99

#### § 112.22 REGULATORY LICENSEE FEE.

(A) A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued under § 112.16 for the purpose of insuring full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expenses, related to the sale of alcoholic beverages in the city. The City Council shall adopt, at the budget adoption for the fiscal year, such percentage rates as shall be reasonably estimated to insure full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expenses, related to the sale of alcoholic beverages in the city. Such regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against such fee shall be allowed in an amount equal to the licenses or fees imposed under § 112.16. Such regulatory fee shall be applied annually.

(B) Payment of such fee shall accompany the tax returns approved for such use by the Director of Finance and a majority of a quorum of the City Council and shall be submitted to the Director of Finance by the twentieth day of each month for the preceding month's sales. The fraction, represented by one divided by the number of months for which the city license was issued, of the fee required *under* § 112.16 shall be deducted each month as a credit.

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

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

(E) Every licensee shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the City Alcoholic Beverage Control Administrator and approved by a majority of a quorum of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. Such books and records shall be available at all reasonable times for inspection by the City Alcoholic Beverage Control Administrator, the Director of Finance, or any authorized representatives.

(F) 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 shall be assessed for the first offense. An automatic penalty of \$100 shall be assessed on the second offense, and an automatic penalty of \$200 shall be assessed on the third offense. In addition to the automatic 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. 83-6, passed 3-23-83; Am. Ord. 86-11 passed 9-2-86) **Statutory** reference: Regulatory license fee, see KRS 243.075

#### § 112.23 REVOCATION OR SUSPENSION.

(A) Any license issued hereunder may be revoked or suspended by the City Alcoholic Beverage Control Administrator if the licensee shall have violated any provision of this chapter or any provision of any statute, law, or regulation relating to the storage, sale, purchase, transporting, or other traffic in alcoholic beverages.

(B) Upon receiving information that a violation may have occurred, the City Alcoholic Beverage Control Administrator shall notify the licensee in question by certified mail of the alleged violation and of the time and place of the hearing. The rules of evidence governing civil proceedings in courts in the Commonwealth of Kentucky shall apply to all hearings except as modified or relaxed by the City Alcoholic Beverage Control Administrator. The City Alcoholic Beverage Control Administrator shall issue a written decision based on the evidence.

(C) In the course of any one day of operation of a licensed premises, should multiple violations of the chapter or other statutes or ordinances of a public disorder nature, for example *disturbing* the peace, be reported and investigated by the Police Department, such recurrence shall be reported to the City Alcoholic Beverage Control Administrator by the Chief of Police. The City Alcoholic Beverage Control Administrator shall in the interest of public health, safety, morals, and welfare direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City Alcoholic Beverage Control Administrator, such review shall occur on the next business day.

(D) Pursuant to this section, the City Alcoholic Beverage Control Administrator shall have the following powers and duties: to hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath, and require the production of any books or papers relative to the inquiry, regardless of whether the witnesses are licensees.

(Ord. 83-6, passed 3-23-83; Am. Ord. 85-11, passed 10-8-85)

#### *ADMINISTRATION ENFORCEMENT*

#### § 112.38 CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) There is hereby created the office of City Alcoholic Beverage Control Administrator.

(B) The functions and duties of this office shall be the same with respect to local licenses and regulations as those of the State Alcoholic Beverage Control Board are to state licenses and Alcoholic Beverages regulations, except that no regulation adopted by the City Alcoholic Beverage Control Administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the State Alcoholic Beverage Control Board.

(C) The City Alcoholic Beverage Control Administrator shall take the oath prescribed in Section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of \$1,000.

(D) The salary for this office shall be set at the sum of \$500 per month with all benefits available to full-time employees of the city.

(Ord. 83-6, passed 3-23-83) Statutory reference: Appointment of City Alcoholic Beverage Control Administrator, see *KRS 241.170(2)* Functions, see *KRS 241.190* Oath and bond, see *KRS 241.180*

#### § 112.36 CONSENTING TO RIGHT OF ENTRY BY SUBMITTING APPLICATION.

Every applicant procuring a license thereby consents to the entry into the premises of police or other duly authorized representatives of the city or state at all hours; to the *inspection* and search of the premises; to the removal from the premises of all things and articles there had in violation of city ordinances or state laws; and to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.

(Ord. 83-6, passed 3-23-83)

### § 112.37 IMMUNITY

All city officers, employees, agents, and representatives shall be immune from liability in implementing and carrying out this chapter and all rules and regulations connected therewith. (Ord. 83-6, passed 3-23-83)

### § 112.38 VIOLATIONS OF STATE OR FEDERAL LAW OR OTHER REGULATIONS.

The violation by any licensee of any federal or state statute, law, or regulation, now, heretofore, or hereafter in effect applicable to any licensee relating to the storage, sale, purchase, transporting, or other traffic in alcoholic beverages shall be deemed a violation of this chapter. If any clerk, agent, servant, or employee of any licensee shall violate any provision of this chapter, or such statute, law, or regulation, the violation shall also be a violation by the licensee. (Ord. 83-6, passed 3-23-83)

### § 112.99 PENALTY.

Any person, firm, or corporation who, acting by himself or through another, directly or indirectly violates any provision of this chapter, shall be guilty of a misdemeanor and for the first offense be fined not less than \$100 nor more than \$200, or be imprisoned for not more than six months, or both; for the second and each subsequent offense, he shall be fined not less than \$200 nor more than \$500, or imprisoned not more than 12 months, or both. The penalties provided for in this section shall be in addition to the right of the city to revoke or suspend the offender's license. If the offender is a corporation, the principal officers responsible for the violation may be imprisoned.

(Ord. 83-6, passed 3-23-83)



CITY OF RUSSELLVILLE, KENTUCKY  
ORDINANCE NO. 2013-01

**AN ORDINANCE ANNEXING INTO THE CITY OF RUSSELLVILLE CERTAIN  
PROPERTY LOCATED AT 1710 NASHVILLE ROAD, RUSSELLVILLE, KENTUCKY,  
CONTAINING APPROXIMATELY 68.67 ACRES AND WHICH IS COMMONLY  
KNOWN AS THE RUSSELLVILLE COUNTRY CLUB**

WHEREAS, EJB Properties, LLC, is the owner (hereinafter, "the Property Owner") of certain property located at 1710 Nashville Street, Russellville, Kentucky, which contains approximately 68.67 acres and is more commonly known as the Russellville Country Club; and

WHEREAS, the Property Owner, has requested and consented to the annexation of said property by and into the City of Russellville, Kentucky, as demonstrated and ratified by the "Consent to Annexation" attached hereto and labeled as Exhibit "1"; and

WHEREAS, the City Council and the Mayor, on behalf of the City of Russellville, deem said annexation as beneficial to the City, its citizens, and that all legal requirements have been met in order to proceed with said annexation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL IN AND FOR THE CITY OF RUSSELLVILLE, KENTUCKY AS FOLLOWS:

- (1) The "Consent to Annexation" attached hereto as Exhibit "1" meets all legal requirements set forth in KRS 81A.412 and is hereby accepted and agreed to by the City of Russellville.
- (2) The property located at 1710 Nashville Road, Russellville, Kentucky, which is more particularly described in Exhibit "A" attached hereto, is hereby annexed by and into the City of Russellville, Kentucky.

**CERTIFICATION**

I hereby certify this document is a true and accurate copy of the original on file with the City of Russellville.

  
Bob Biggs, City Clerk

3/4/13  
Date


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- (3) The adjacent property owners of the annexed property are those which are listed in Exhibit "B".
- (4) The zoning classification for the annexed property shall be "B-2 Commercial" as is set forth in the zoning map attached hereto and labeled as Exhibit "2".
- (5) In the event any provision of this Ordinance is invalid for any reason, such invalidity shall not affect any other provision.
- (6) All portions of any ordinance or rule or regulation in conflict herewith are hereby repealed to the extent of that conflict only.
- (7) This Ordinance shall be effective upon its passage and publication according to law.

**FIRST READING** conducted on the 5th day of February 2013.

**SECOND READING** conducted and **PASSAGE** on the 11th day of February 2013.

APPROVED BY:

  
\_\_\_\_\_  
Mark Stratton, Mayor

ATTEST:

  
\_\_\_\_\_  
Bob Riggs, City Clerk

CONSENT TO ANNEXATION

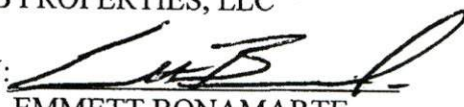
THIS CONSENT TO ANNEXATION is hereby submitted this 7<sup>th</sup> day of February, 2013, by EJB Properties, LLC, whose address is 1710 Nashville Street, Russellville, Ky 42276 (hereinafter referred to as "the Property Owner") unto the City of Russellville, Ky;

WHEREAS, the Property Owner has requested that its property be annexed into the City of Russellville, Ky, and the Property Owner desires to ratify its Consent to this annexation in writing;

NOW, THEREFORE, the Property Owner agrees and certifies:

1. The Property Owner hereby requests and consents to the annexation of its Property into the City of Russellville, Kentucky pursuant to KRS 81A.412.
2. The Property Owner hereby releases the City of Russellville, and its respective agents, officers, employees and representatives, from any and all claims arising out of or related in any way to the annexation and zoning of the Property.
3. The property is more particularly described on the attached Exhibit "A", and a listing of all adjacent property owners, as determined by the Property Valuation Administrator, is attached as Exhibit "B".
4. This Consent to Annexation shall be perpetual and shall run with the Property, and it shall be binding upon the Property Owner, and its successors and assigns.
5. The Property Owner requests and consents to the proposed zoning classification of General Business for this property.

EJB PROPERTIES, LLC

BY:   
EMMETT BONAMARTE,  
AUTHORIZED AGENT

STATE OF KENTUCKY  
COUNTY OF LOGAN

Subscribed and sworn to before me by Emmett Bonamarte, in his capacity as the duly authorized Agent for EJB Properties, LLC, to be the duly authorized act and deed of said company this 7<sup>th</sup> day of February, 2013.

My commission expires 4/26/15.

  
NOTARY PUBLIC

EXHIBIT 1

**Exhibit "A"**

Beginning at a stake in the west edge of the Dixie Highway, corner to the Airport tract now owned by Parker; running thence with said road S 22-1/4 E 22.65 chains to a post corner to B.W. Price; thence with his line S 66-1/4 W 6.75 chains to a post corner to the same; thence S 71-3/4 W 14.07 chains to a stake corner to the same, in the pond; thence S 85-3/4 W 1.30 chains to a telephone pole; thence with the course of the telephone line S 73 W 10.60 chains to a stake in the road; thence S 88 1/2 W 4.83 chains to a stake in the east edge of the Orndorff Mill Road; thence with the east edge of said road N 8 1/4 E 21.20 chains to a stake corner to the Airport tract, now Parker; thence with a line of said tract N 68 E 26.21 chains to the beginning, containing 69 1/4 acres.

There is excepted from said property a tract of land sold to Sally Browning Roberson by deed dated April 27, 1972 as recorded in Deed Book 206 page 308 in the Logan County Court Clerk's office.

Being the same property conveyed to E J B Properties, LLC as recorded in Logan County Clerk's Office in Deed Book 409, page 679.

**LEGAL PUBLICATION OF ORDINANCE IN SUMMARY**  
**CITY OF RUSSELLVILLE, KENTUCKY**  
**ORDINANCE NO. 2013-01**

**AN ORDINANCE ANNEXING INTO THE CITY OF RUSSELLVILLE CERTAIN  
PROPERTY LOCATED AT 1710 NASHVILLE ROAD, RUSSELLVILLE, KENTUCKY,  
CONTAINING APPROXIMATELY 68.67 ACRES AND WHICH IS COMMONLY  
KNOWN AS THE RUSSELLVILLE COUNTRY CLUB**

In accordance with KRS 86A.060(9), the undersigned, a licensed, practicing attorney in the Commonwealth of Kentucky, summarizes this Ordinance as follows:

- 1) This Ordinance annexes into the City of Russellville certain real property located at 1710 Nashville Road, Russellville, Kentucky, containing approximately 68.67 acres, and more particularly described in Deed Book 409, page 679, in the Logan County Clerk's Office.
- 2) Said annexation was accomplished by consent of the owner, EJB Properties, LLC, pursuant to the "Consent to Annexation" executed by the owner on February 4, 2013.
- 3) The zoning classification of said property shall be "B-2 Commercial".
- 4) The full text of this Ordinance is available for copying and inspection at the office of Bob Riggs, Russellville City Clerk, 168 South Main Street, Russellville, Kentucky, during normal business hours.
- 5) The City Council of Russellville, Kentucky enacted this Ordinance after a first reading conducted on February 5, 2013, and a second reading and vote on February 11, 2013.

**CERTIFICATION OF COUNSEL:** The undersigned attorney hereby certifies that the foregoing is an accurate summary of City of Russellville Ordinance 2013-01.

Paul Neil Kerr II, Esq.  
Russellville City Attorney  
568 East Fourth Street  
Russellville, Kentucky 42276  
Telephone: (270)726-7695

**CITY OF RUSSELLVILLE, KENTUCKY  
ORDINANCE NO. 2005-\_\_\_\_\_**

AN ORDINANCE AMENDING ORDINANCE 83-6, "AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF RUSSELLVILLE, KENTUCKY, DEFINING TERMS; CREATING THE OFFICE OF CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; REQUIRING LICENSES; SPECIFYING TYPES WITH THE FEES FOR EACH AND RESTRICTING LOCATION OF LICENSEES; PROVIDING FOR THE ISSUANCE OF LICENSES AND PAYMENT OF FEES; SETTING THE TERMS OF LICENSES; REQUIRING THE DISPLAY OF LICENSES AND PROVIDING FOR REPLACEMENT OF LOST OR DESTROYED LICENSES AND FEE THEREFOR; REQUIRING STATE LICENSE; SPECIFYING HOURS WHEN SALES PERMITTED; SPECIFYING THAT SUBMITTING APPLICATION CONSENTS TO ENTRY, INSPECTION, AND SEARCH, REMOVAL, AND INTRODUCTION IN EVIDENCE; IMPOSING A REGULATORY LICENSE FEE; RESTRICTING ADVERTISING AND SIGNS; PROVIDING FOR REVOCATION AND SUSPENSION OF LICENSES IN THE EVENT OF VIOLATIONS OF STATE OR FEDERAL LAW OR OF THIS ORDINANCE; PROVIDING FOR PENALTIES; PROVIDING IMMUNITY; PROVIDING FOR THE EFFECTIVE DATE HEREOF; WITH A SEVERABILITY PROVISION" BY ADDING A NEW SECTION PROVIDING REGULATIONS AND MANDATORY TRAINING FOR SERVERS OF ALCOHOLIC BEVERAGES; PROVIDING FOR A SEVERABILITY CLAUSE, REPEALER CLAUSE AND AN EFFECTIVE DATE

\*\* \*\* \*

WHEREAS, the City Council in and for the City of Russellville, recognizes certain persons should be denied the opportunity to purchase alcoholic beverages; and

WHEREAS, the holders of licenses to sell and serve alcoholic beverages have the ability, and the obligation, to deny the sale of alcoholic beverages to certain persons; and

WHEREAS, training programs currently exist to educate servers on the responsible sale of alcoholic beverages, and such training can readily assist in reducing needless tragedies caused by irresponsible and intoxicated persons; and

WHEREAS, these training programs can and should reduce the cost of liability insurance for the Licensees, thus reducing operating costs of the Licensee; and

WHEREAS, it is in the best interests of the citizens of the City of Russellville for sellers and servers to be properly trained as to whom the sale of alcoholic beverages ought to be denied; and

WHEREAS, it is in the best interests of the Licensee to receive training as to whom the sale of alcoholic beverages ought to be denied.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL IN AND FOR THE CITY OF RUSSELLVILLE, KENTUCKY AS FOLLOWS:

A new section is to be added to Ordinance 83-6 to read as follows:

**A. REGULATIONS RELATING TO SERVERS**

1. "Server" for purposes of this Section shall mean any person employed or working in any capacity, whether as an employee, volunteer help or as a working proprietor, in any premise licensed for the sale of alcoholic beverages where alcoholic beverages are available for retail package sale, or where sold or dispensed by the drink, or where malt beverages are sold for consumption on the premises and whose job duties include the sale, dispensing or service of alcoholic beverages or the management of the licensed premises.

2. No person shall be employed by a licensed premise as a server unless the server has successfully completed a City-approved alcoholic beverage server training program.

3. All persons required to undergo the training set forth in paragraph (2) above shall complete such training within one hundred twenty (120) days of the effective date of this ordinance. New licensees, employees, officers and agents shall complete the mandatory responsible beverage service training within sixty (60) days from the date of employment. Licensees, employees, officers or agents who fail to complete the mandatory responsible beverage service training within the prescribed time shall not sell or serve alcoholic beverages on the licensed premises until they have successfully completed the required training. All persons completing the training requirements in this section shall be recertified in responsible beverage service training under the foregoing criteria not less than once every three (3) years thereafter.

3. Each licensed premise shall maintain a file at the licensed premise for each server for whom training is required. The file shall contain the name, job description, date of employment and proof of certification of each server regulated by this Section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

4. This section shall not apply to those holders of a wholesale license for the sale of alcoholic beverages.

**B. APPROVED TRAINING FOR SERVERS**

The City of Russellville officially recognizes the following agencies as being qualified to provide the training required by this Ordinance:

- "TIPS" (Training for Intervention ProcedureS) as administered by Health Communications, Inc.
- "STAR" (Server Training in Alcohol Regulations) as administered by the Kentucky Alcoholic Beverage Control Board.
- Other training agencies may be approved by the City of Russellville Administrator of Alcoholic Beverages from time to time.

**C. SEVERABILITY CLAUSE**

In the event any provision of this Ordinance is invalid for any reason, such invalidity shall not affect any other provision.

**D. REPEALER CLAUSE**

All portions of any ordinance or rule or regulation in conflict herewith are hereby repealed to the extent of that conflict only.

**E. EFFECTIVE DATE**

This Ordinance shall be effective upon its passage and publication according to law.

First reading conducted on the 7<sup>th</sup> day of June, 2005.



**CITY OF RUSSELLVILLE, KENTUCKY  
ORDINANCE 2005-03**

AN ORDINANCE AMENDING ORDINANCE 83-6, "AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF RUSSELLVILLE, KENTUCKY, DEFINING TERMS; CREATING THE OFFICE OF CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; REQUIRING LICENSES; SPECIFYING TYPES WITH THE FEES FOR EACH AND RESTRICTING LOCATION OF LICENSEES; PROVIDING FOR THE ISSUANCE OF LICENSES AND PAYMENT OF FEES; SETTING THE TERMS OF LICENSES; REQUIRING THE DISPLAY OF LICENSES AND PROVIDING FOR REPLACEMENT OF LOST OR DESTROYED LICENSES AND FEE THEREFOR; REQUIRING STATE LICENSE; SPECIFYING HOURS WHEN SALES PERMITTED; SPECIFYING THAT SUBMITTING APPLICATION CONSENTS TO ENTRY, INSPECTION, AND SEARCH, REMOVAL, AND INTRODUCTION IN EVIDENCE; IMPOSING A REGULATORY LICENSE FEE; RESTRICTING ADVERTISING AND SIGNS; PROVIDING FOR REVOCATION AND SUSPENSION OF LICENSES IN THE EVENT OF VIOLATIONS OF STATE OR FEDERAL LAW OR OF THIS ORDINANCE; PROVIDING FOR PENALTIES; PROVIDING IMMUNITY; PROVIDING FOR THE EFFECTIVE DATE HEREOF; WITH A SEVERABILITY PROVISION" BY PROVIDING A NEW SECTION ESTABLISHING THE REGULATIONS FOR A DISTILLED SPIRITS RETAIL DRINK LICENSE; BY CREATING A SEPARATE WINE RETAIL DRINK LICENSE WITH ASSOCIATED FEE; PROVIDING A REPEALER CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

**\*\* \*\* \***

**BE IT ORDAINED BY THE CITY OF RUSSELLVILLE, KENTUCKY, THAT:**

WHEREAS, the City of Russellville has previously enacted Ordinance No. 83-6 (as amended), regulating the sale of alcoholic beverages in the City of Russellville; and

WHEREAS, the City Council in and for the City of Russellville has and does hereby make a legislative determination that an economic hardship exists within the City of Russellville, and the sale of alcoholic beverages by the drink in hotels, motels, inns or restaurants could aid economic growth in the City of Russellville;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL IN AND  
FOR THE CITY OF RUSSELLVILLE, KENTUCKY, AS FOLLOWS:**

I. Ordinance 83-6, entitled "AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF RUSSELLVILLE, KENTUCKY, DEFINING TERMS; CREATING THE OFFICE OF CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; REQUIRING LICENSES; SPECIFYING TYPES WITH THE FEES FOR EACH AND RESTRICTING LOCATION OF LICENSEES; PROVIDING FOR THE ISSUANCE OF LICENSES AND PAYMENT OF FEES; SETTING THE TERMS OF LICENSES; REQUIRING THE DISPLAY OF LICENSES AND PROVIDING FOR REPLACEMENT OF LOST OR DESTROYED LICENSES AND FEE THEREFOR; REQUIRING STATE LICENSE; SPECIFYING HOURS WHEN SALES PERMITTED; SPECIFYING THAT SUBMITTING APPLICATION CONSENTS TO ENTRY, INSPECTION, AND SEARCH, REMOVAL, AND INTRODUCTION IN EVIDENCE; IMPOSING A REGULATORY LICENSE FEE; RESTRICTING ADVERTISING AND SIGNS; PROVIDING FOR REVOCATION AND SUSPENSION OF LICENSES IN THE EVENT OF VIOLATIONS OF STATE OR FEDERAL LAW OR OF THIS ORDINANCE; PROVIDING FOR PENALTIES; PROVIDING IMMUNITY; PROVIDING FOR THE EFFECTIVE DATE HEREOF; WITH A SEVERABILITY PROVISION" is hereby amended as follows:

I. Under the heading contained in Ordinance 83-6, found at Article IV "Types of Licenses – Fees" an amended schedule of license and fees is to read as follows:

A. The following kinds of distilled spirits and wine licenses and malt beverage licenses may be issued by the City and the annual fees for each license shall be:

<b><i>Distilled Spirits and Wine Licenses</i></b>	<b>Fee</b>
Distilled spirits and wine wholesaler's license	\$3,000.00
Distilled spirits and wine retail package license	600.00
Distilled spirits and wine retail drink license	<u>600.00</u>
<u>Wine retail drink license</u>	<u>300.00</u>

***Malt Beverage Licenses***

Malt beverage distributor's license	400.00
Malt beverage retail package carry-out license	200.00
Malt beverage retail drink license	200.00

II. A new section (G) under the heading of "IV. TYPES OF LICENSES – FEES" is created as follows:

G. A Distilled Spirits Retail Drink License permits only retail sale of distilled spirits by the drink for consumption on the licensed premises where sold, and not for resale in any form. This License is available only to hotels, motels or inns containing not less than 50 sleeping units and having dining facilities for not less than 100 persons or bona fide restaurants open to the general public having dining facilities for not less than 100 persons.

III. All ordinances or parts of ordinances in conflict herewith now in effect are hereby repealed.

IV. If any clause, provision or section of this ordinance shall be ruled void or unenforceable by any court of competent jurisdiction, the remainder hereof is intended to be enacted and shall be in force and effect notwithstanding.

V. This ordinance shall be effective upon its passage and publication as required by law.

**FIRST READING** conducted this the 8<sup>th</sup> of February, 2005.

**SECOND READING and passage** the 21<sup>st</sup> day of February, 2005.

  
SHIRLEE YASSNEY, MAYOR

Ayes: McPherson, Lanny; Phillips, Charles; Zick, Eugene; Yassney, Shirlee

Nays: Jones, Russell; Stratton, Mark; Whipple, Jack.

Abstaining: none

Absent: none

**ATTEST:**

  
BOB RIGGS, CITY CLERK

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**CITY OF RUSSELLVILLE, KENTUCKY  
RESOLUTION NO. 2005-02**

ALCOHOLIC  
BEVERAGE CONTROL

WHEREAS, the City of Russellville, Kentucky, by virtue of KRS 81.010, is a municipality of the fourth class, duly organized and existing under the laws of the Commonwealth of Kentucky; and

WHEREAS, on February 1, 1983, the electorate within the City of Russellville, Kentucky, did discontinue the prohibition on the sale of alcoholic beverages in the City of Russellville, Kentucky; and

WHEREAS, the City Council in and for the City of Russellville, Kentucky, did on March 23, 1983, enact Ordinance 83-6 (as amended), providing rules and regulations for the sale of alcoholic beverages within the city limits; and

WHEREAS, this City Council, in and for the City of Russellville, Kentucky, does hereby make the determination that an economic hardship exists within the City of Russellville, and the sale of alcoholic beverages by the drink in hotels, motels, inns or restaurants could aid economic growth in the City of Russellville.

NOW, THEREFORE, BE IT RESOLVED by the City Council in and for the City of Russellville, Kentucky, that a legislative determination is hereby made that an economic hardship does hereby exist within the City of Russellville, Kentucky; and

BE IT FURTHER RESOLVED that an Ordinance should be presented to the City Council, as provided for in KRS 242.185(2), regulating the licensing and operation of hotels, motels, inns and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

**IT SO RESOLVED** this 8<sup>th</sup> day of February, 2005.

*Shirlee Yassney*  
**SHIRLEE YASSNEY, MAYOR**

AYES: McPherson, Lanny; Phillips, Charles; Zick, Eugene; Yassney, Shirlee.  
NAYS: Jones, Russell; Stratton, Mark; Whipple, Jack.  
ABSTAINING: None.  
ABSENT: None.

ATTEST:

*Bob Riggs*  
**BOB RIGGS, CITY CLERK**

COPY

## LEGAL PUBLICATION OF ORDINANCE IN SUMMARY

The City Council in and for the City of Russellville, Kentucky, has enacted Ordinance 2005-03 entitled "AN ORDINANCE AMENDING ORDINANCE 83-6, 'AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF RUSSELLVILLE, KENTUCKY, DEFINING TERMS; CREATING THE OFFICE OF CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; REQUIRING LICENSES; SPECIFYING TYPES WITH THE FEES FOR EACH AND RESTRICTING LOCATION OF LICENSEES; PROVIDING FOR THE ISSUANCE OF LICENSES AND PAYMENT OF FEES; SETTING THE TERMS OF LICENSES; REQUIRING THE DISPLAY OF LICENSES AND PROVIDING FOR REPLACEMENT OF LOST OR DESTROYED LICENSES AND FEE THEREFOR; REQUIRING STATE LICENSE; SPECIFYING HOURS WHEN SALES PERMITTED; SPECIFYING THAT SUBMITTING APPLICATION CONSENTS TO ENTRY, INSPECTION, AND SEARCH, REMOVAL, AND INTRODUCTION IN EVIDENCE; IMPOSING A REGULATORY LICENSE FEE; RESTRICTING ADVERTISING AND SIGNS; PROVIDING FOR REVOCATION AND SUSPENSION OF LICENSES IN THE EVENT OF VIOLATIONS OF STATE OR FEDERAL LAW OR OF THIS ORDINANCE; PROVIDING FOR PENALTIES; PROVIDING IMMUNITY; PROVIDING FOR THE EFFECTIVE DATE HEREOF; WITH A SEVERABILITY PROVISION' BY PROVIDING A NEW SECTION ESTABLISHING THE REGULATIONS FOR A DISTILLED SPIRITS RETAIL DRINK LICENSE; BY CREATING A SEPARATE WINE RETAIL DRINK LICENSE WITH ASSOCIATED FEE; PROVIDING A REPEALER CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE".

In accordance with KRS 86A.060(9), the undersigned, a licensed, practicing attorney in the Commonwealth of Kentucky, summarizes this Ordinance as follows:

1. This Ordinance has been enacted to reaffirm a legislative determination made by the City Council of the City of Russellville that an economic hardship exists within the City of Russellville, and the sale of alcoholic beverages by the drink in hotels, motels, inns or restaurants could aid economic growth in the City of Russellville.
2. This Ordinance has been enacted to provide a separate Wine Retail Drink License and setting the license fee at \$300.00.
3. This Ordinance provides an increase in the license fee to \$600 for a Distilled Spirits and Wine Retail Drink License.
4. This Ordinance provides that a Distilled Spirits Retail Drink License permits only retail sale of distilled spirits by the drink for consumption on the licensed premises where sold, and not for resale in any form. This License is available only to hotels, motels or inns containing not less than 50 sleeping units and having dining facilities for not less than 100 persons or bona fide restaurants open to the general public having dining facilities for not less than 100 persons.

5. This Ordinance contains a Severability clause and a Repealer clause.

The full text of this Ordinance is available for copying and inspection in the office of the City Clerk, City Hall, Russellville, Kentucky, during normal business hours.

The City Council of Russellville, Kentucky enacted this Ordinance after a first reading conducted on February 8, 2005 and a second reading conducted on February 21, 2005.

This Ordinance is in effect immediately upon publication.

**CERTIFICATION OF COUNSEL**

I hereby certify that the foregoing is an accurate summary of City of Russellville Ordinance 2005-03.

C. Robert Hedges  
Russellville City Attorney  
157 West Fifth Street  
P. O. Box 335  
Russellville, KY 42276-0335  
270-726-9604

ORDINANCE NO. 94- 3

AN ORDINANCE AMENDING ORDINANCE 83-8 "AN ORDINANCE ADOPTING A CODIFICATION OF PERSONNEL CLASSIFICATION PLAN AND CODIFICATION OF PERSONNEL PAY PLAN, PROVIDING FOR WAIVER THEREOF, REPEALING PRIOR CONFLICTING ORDINANCES AND REGULATIONS, WITH SEVERABILITY CLAUSE AND EMERGENCY PROVISION" BY PROVIDING THE JOB DESCRIPTIONS AND PAY CLASSIFICATIONS FOR ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR AND ALCOHOLIC BEVERAGE CONTROL ENFORCEMENT AGENT WITH SEVERABILITY AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE

THAT WHEREAS, the City of Russellville has previously adopted Ordinance 83-8 "An Ordinance Adopting a Codification of Personnel Classification Plan and Codification of Personnel Pay Plan, Providing for Waiver Thereof, Repealing Prior Conflicting Ordinances and Regulations, with Severability and Emergency Provision", and the City has now determined that it is necessary and proper to amend that ordinance to provide for accurate job descriptions for the positions of Alcoholic Beverage Control Administrator and Alcoholic Beverage Control Enforcement Agent;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RUSSELLVILLE,

THAT:

Section 1: The job descriptions for Alcoholic Beverage Control Administrator and Alcoholic Beverage Control Enforcement Agent as attached hereto and marked as Exhibit "A" and "B" are adopted for these positions, and these positions are classified as shown on the attachments for payment classification purposes.

Section 2: In the event any provision of this Ordinance is invalid for any reason, such invalidity shall not affect the validity of any other provisions.



Section 3: All portions of any section of any ordinance or rule or regulation in conflict herewith are hereby repealed to the extent of that conflict only.

Section 4: This Ordinance shall be effective upon its passage and publication according to law.

FIRST READING CONDUCTED ON May 17th, 1994.

SECOND READING CONDUCTED ON AND PASSAGE by roll call vote this 7th day of June, 1994.

AYES:	NAYES:	ABSTAINING:	ABSENT:
<u>Willie Hampton</u>	<u>None</u>	<u>None</u>	<u>None</u>
<u>Patricia Basham</u>			
<u>Howard Wren</u>			
<u>Russell Jones</u>			
<u>Jean Hankins</u>			
<u>Michael Baugh</u>			

*Ken Smith*  
KEN SMITH, MAYOR

ATTEST:

*Peggy Jenkins*  
PEGGY JENKINS CITY CLERK

CLASS TITLE: CITY ALCOHOLIC BEVERAGE CONTROL ENFORCEMENT AGENT

DEPARTMENT: POLICE GREG JOLY ENFORCEMENT AGENT 

EFFECTIVE DATE: \_\_\_\_\_

APPROVED:

\_\_\_\_\_

TITLE CHARACTERISTICS AND ESSENTIAL DUTIES:

Enforcement of City Alcohol Beverage ordinances and State laws; constant inspections of alcohol licensed establishments to determine if there is compliance with current city and state regulations; conducts background investigations of potential alcohol licensees to determine if the applicant is eligible to receive an alcohol license; investigates complaints of illegal sales of alcohol by licensed and unlicensed persons or establishments; writes necessary reports and documents regarding investigations of illegal alcohol activities, works closely with, and coordinates with, the regional State Alcohol Beverage Control Agent; and may recommend audits of licensed businesses' alcohol sales and taxes to ABC Administrator; operates and maintains vehicle assigned to this position. Enforcement includes, but not limited to, D.U.I. suppression, possession of alcohol by minors, alcohol sales without license, etc. Possesses same powers as a peace officer and authorized to carry a weapon in the performance of his duties. To attend annual inservice training, makes request of information from the LINK-NCIC system from authorized personnel, conduct criminal and civil investigations relating to alcohol beverage laws. Provide witness testimony in criminal proceedings as well as civil license suspension or revocation hearing. Will be under the direct supervision of the ABC Administrator.

MINIMUM REQUIREMENTS:

Must be at least 21 years of age; graduate of an accredited high school or GED; U.S. and Kentucky citizen; able to read and write the English language; able to read and comprehend state laws and city ordinances; no felony arrests; no convictions for use or possession of drugs; no D.U.I. arrests; must possess a valid Kentucky operator's license; ability to verbally communicate in a manner that can be clearly understood by other persons; able to operate a vehicle for long period of time.

SPECIAL RESTRICTION:

Must not have any financial interest in a business that has an Alcohol Beverage license, nor be employed by an Alcohol Beverage licensed business.

CLASS TITLE: CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

DEPARTMENT: POLICE

OPERATION CAPTAIN RAWLIE GREER



EFFECTIVE DATE: \_\_\_\_\_

APPROVED: \_\_\_\_\_

TITLE CHARACTERISTICS:

This person is responsible for the administration of city and state Alcohol Beverage regulations and laws. Hears all local alcohol cases and attends State hearing regarding potential alcohol licensees and suspension or revocation of alcohol license. This person is also responsible for the monitoring of city alcohol tax collections to insure that payments are current and to take corrective actions if licensed businesses are delinquent, also recommends audit of businesses, that have alcohol licenses.

This position is held by the current Operation Captain of the Police Department. The position will be directly under the supervision of the Chief of Police of the Russellville Police Department. The ABC Enforcement Agent will come under supervision of ABC Administrator.

MINIMUM REQUIREMENTS:

This position requires that they must be rank of Sergeant or above in the Russellville Police Department.

SPECIAL RESTRICTIONS:

Must not have financial interest in a business that has an Alcohol Beverage license, nor be employed by an Alcohol Beverage licensed business.

ORDINANCE 86-11

AN ORDINANCE AMENDING ORDINANCE 83-6 PROVIDING FOR PENALTIES FOR VIOLATIONS OF THE REQUIREMENT OF THE PAYMENT OF THE REGULATORY LICENSE FEES; WITH A REPEALER CLAUSE; WITH A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE CITY OF RUSSELLVILLE, KENTUCKY THAT:

1. A new section F be and is hereby added to Section XI:

F. 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 \$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 automatic monetary penalty, the City 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.

2. The other penalty provisions of Ordinance 83-6 shall remain in full force and effect.

3. 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.

4. All portions of any section of any ordinance or rule or regulation in conflict herewith are hereby repealed to the extent of that conflict only.

5. In the event any provision of this Ordinance is invalid for any reason, such invalidity shall not affect the validity of any other provision.

This ordinance shall be effective after its passage and publication according to law.

ORDINANCE NO. 83-6

AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF RUSSELLVILLE, KENTUCKY, DEFINING TERMS; CREATING THE OFFICE OF CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; REQUIRING LICENSES; SPECIFYING TYPES WITH THE FEES FOR EACH AND RESTRICTING LOCATION OF LICENSEES; PROVIDING FOR THE ISSUANCE OF LICENSES AND PAYMENT OF FEES; SETTING THE TERMS OF LICENSES; REQUIRING THE DISPLAY OF LICENSES AND PROVIDING FOR REPLACEMENT OF LOST OR DESTROYED LICENSES AND FEE THEREFOR; REQUIRING STATE LICENSE; SPECIFYING HOURS WHEN SALES PERMITTED; SPECIFYING THAT SUBMITTING APPLICATION CONSENTS TO ENTRY, INSPECTION, AND SEARCH, REMOVAL, AND INTRODUCTION IN EVIDENCE; IMPOSING A REGULATORY LICENSE FEE; RESTRICTING ADVERTISING AND SIGNS; PROVIDING FOR REVOCATION AND SUSPENSION OF LICENSES IN THE EVENT OF VIOLATIONS OF STATE OR FEDERAL LAW OR OF THIS ORDINANCE; PROVIDING FOR PENALTIES; PROVIDING IMMUNITY; PROVIDING FOR THE EFFECTIVE DATE HEREOF; WITH A SEVERABILITY PROVISION.

BE IT ORDAINED BY THE CITY OF RUSSELLVILLE, KENTUCKY, THAT:

I. DEFINITIONS

For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning:

A. The terms "alcohol," "alcoholic beverage," "building containing licensed premises," "convicted," "conviction," "distilled spirits" or "spirits," "distributor," "malt beverage," "premises," "retail sale," "retailer," "sale," "sell," "wholesale sale," "wholesaler," and "wine" shall have the same definitions as set forth in KRS 241.

B. "City Administrator" shall mean the duly appointed Alcoholic Beverage Control Administrator for the City of Russellville, Kentucky.

C. "License" shall mean any license issued pursuant to this Ordinance.

D. "Licensee" shall mean any person, partnership, corporation, or other business entity to which a license has been issued

pursuant to this Ordinance.

II. CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR: TITLE, POWERS AND DUTIES, OATH, BOND, AND COMPENSATION

There is hereby created the office of City Alcoholic Beverage Control Administrator. The functions and duties of this office shall be the same with respect to local licenses and regulation as those of the state Alcoholic Beverage Control Board are to state licenses and regulation. The City Alcoholic Beverage Control Administrator shall take the oath prescribed in Section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of \$1,000.00. The salary for this office shall be set at the sum of \$500.00 per month with all benefits available to full-time employees of the City.

III. LICENSE REQUIRED

No person, firm, or corporation shall do any act authorized by any kind of license provided for in this chapter with respect to the storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless the person, firm, or corporation holds the kind of license from the city which authorizes such act. No person, firm, or corporation which conducts a place of business patronized by the public and which does not hold a license to sell distilled spirits, and wine or malt beverages shall permit any person to sell, barter, loan, give away, or drink distilled

spirits, wine, or malt beverages on the premises of his place of business.

IV. TYPES OF LICENSES: FEES

A. The following kinds of distilled spirits and wine licenses and malt beverage licenses may be issued by the City and the annual fees for each license shall be:

Distilled Spirits and Wine Licenses

Distilled Spirits and Wine Wholesaler's License	\$3,000
Distilled Spirits and Wine Retail Package License	\$ 600
Distilled Spirits and Wine Restaurant Wine License	\$ 300

Malt Beverage Licenses

Malt Beverage Distributor's License	\$ 400
Malt Beverage Retail Package Carry-out License	\$ 200
Malt Beverage Retail Drink License	\$ 200

B. The issuance of a Distilled Spirits and Wine Wholesaler's License, a Distilled Spirits and Wine Retail Package License, a Restaurant Wine License, and a Malt Beverage Distributor's License shall authorize the licensee to do the acts authorized by the corresponding state license within the city limits of Russellville, Kentucky, unless specifically limited by this Ordinance, an amendment hereto, or a rule and/or regulation of the City approved by a majority of a quorum of the City Council.

C. A Malt Beverage Retail Package Carry out License shall authorize the licensee to purchase, receive, possess, and sell malt beverages at retail and only for consumption off the licensed

premises. The licensee shall purchase only from licensed brewers or licensed distributors.

D. A Malt Beverage Retail Drink License shall authorize the licensee to purchase, receive, possess, and sell malt beverages at retail for consumption on the licensed premises. The licensee shall purchase only from licensed brewers or licensed distributors. Unless the licensee holds a Malt Beverage Retail Package Carry-out License, he shall not sell malt beverages by the package for consumption off the premises. A Malt Beverage Retail Drink License shall only be issued to a business for a location which receives fifty percent (50%) or more of its gross annual income from the sale of food consumed on the premises and has, and maintains, a minimum indoor seating capacity of fifty (50) people at tables.

E. In the event the premises on which an applicant's business is to be conducted is located within two hundred (200) feet of any school, hospital, church, public park, or playground, the City Administrator shall, before granting any license, consider the effect on and from the surrounding area in the event the application was granted. Upon a determination that the granting of the license would probably harm or otherwise adversely affect or be affected by the surrounding area, the City Administrator may deny the application after a hearing held pursuant to Section XIII. B.



F. Distilled Spirits and Wine Retail Package Licenses shall be issued only for premises on which at least seventy-five percent (75%) of the gross revenues are derived from the sale of alcoholic beverages.

V. ISSUANCE OF LICENSES AND PAYMENT OF FEES

Applications for the issuance or renewal of all licenses provided for in this ordinance shall be made to the City Administrator. All applications shall include a complete copy of the application submitted for the corresponding state license together with all other information as may be designated by the City Administrator. All such forms and information shall be previously approved by a majority of a quorum of the City Council. All license fees collected pursuant hereto shall be paid to and collected by the Director of Finance of the City of Russellville, Kentucky.

VI. TERMS OF LICENSE

A. All licenses issued hereunder shall expire on June 30 of each year. The renewal of any alcoholic beverage license shall not be construed to be a waiver or condonation of any violation which occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee therefor.

B. When any person applies for a license authorized to be issued hereunder after July 1 of any year, he shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following July 1,

except that no charge shall be less than one half (1/2) of the yearly fee. No abatement of license fees shall be permitted.

VII. DISPLAY OF LICENSE: LOST OR DESTROYED LICENSE

A. Before commencing or doing any business for the term for which a license has been issued, the license shall be posted and at all times displayed 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.

B. No licensee shall post the license or permit it to be posted upon 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.

C. Whenever a license is lost or destroyed without the fault of the licensee or his agents or employees, a duplicate license shall be issued upon proof of loss satisfactory to the City Administrator and upon payment of a fee of \$1.

VIII. STATE LICENSE REQUIRED

A. No license provided for hereunder shall be issued, renewed, or transferred to any person, firm, or corporation until the person, firm, or corporation shall have obtained the issuance, renewal, or transfer of the state license corresponding

thereto. The state Malt Beverage Retailer's License corresponds to both the City Malt Beverage Retail Package Carry-out License and the City Malt Beverage Retail Drink License. In each instance, the licensed premises covered by the city license must be the same as the licensed premises covered by the corresponding state license.

B. The city license issued to any person, firm, or corporation shall remain valid only so long as the state license corresponding thereto, issued to the person, firm, or corporation, shall be valid. Any revocation, suspension, nonrenewal, or other action which makes the state license null and void shall operate to revoke, suspend, make nonrenewable, and thereby make null and void the city license corresponding thereto for the same period of time. Any city license which is revoked, suspended, not renewed, or so made invalid shall be immediately surrendered to the City Administrator.

#### IX. HOURS WHEN SALES PERMITTED

A. A licensee may sell alcoholic beverages or do any act authorized by the licensee's license with respect to the sale of alcoholic beverages only during the hours between 6 a.m. and midnight, prevailing time, except that no retail sale shall be made during the hours the polls are open on any election day, or on Sundays or Christmas.

#### X. CONSENT BY SUBMITTING APPLICATION

Every applicant procuring a license thereby consents to the

entry into the premises of police or other duly authorized representatives of the City or State at all hours, and consents to the inspection and search of the premises, and consents to the removal from said premises of all things and articles there had in violation of City Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.

#### XI. REGULATORY LICENSE FEE

A. A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued under Section IV 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 beverage in the City. Said license fee for sales prior to July 1, 1983, shall be five percent (5%) of gross receipts from retail sales of alcoholic beverages. Thereafter, the City Council shall adopt, at the budget adoption for the fiscal year 1983-84, and each year thereafter, such percentage rates as shall be reasonably estimated to insure full reimbursement to the City for the cost of any additional policing, regulatory or administrative expenses, related to the sale of alcoholic beverage in the City. Such regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against such fee shall be allowed in an amount equal to the licenses or fees imposed under Section IV. Such regulatory fee shall be applied annually hereafter.

B. Payment of such fee shall accompany the tax returns approved for such use by the Director of Finance and a majority of a quorum of the City Council and shall be submitted to the city Director of Finance by the 20th day of each month for the preceeding month's sales. The fraction, represented by one (1) divided by the number of months for which the city license was issued, of the fee required under Section IV shall be deducted each month as a credit.

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

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

E. 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 Administrator and approved by a majority of a quorum of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. Such books and records shall be available at all reasonable times for inspection

by the City administrator, the Director of Finance or any authorized representatives.

XII. ADVERTISING AND SIGN RESTRICTIONS

No signs referring to alcoholic beverages directly or indirectly, visible from the outside, except as that reference may be contained in the name of the business establishment, shall be permitted. No flashing lights or neon lamps shall be used to illuminate signs unless approved by the Beautification Committee of the City of Russellville as promoting the aesthetic quality of the City. The Zoning Ordinance of the City, in particular, but not by way of limitation, as it regards signs, shall apply to all licensed premises.

XIII. VIOLATIONS OF STATE OR FEDERAL LAW OR OF THIS ORDINANCE;  
REVOCATION AND SUSPENSION OF LICENSE

A. The violation by any licensee of any federal or state statute, law, or regulation, now, heretofore, or hereafter in effect applicable to any licensee relating to the storage, sale, purchase, transporting, or other traffic in alcoholic beverages shall be deemed a violation of this Ordinance. If any clerk, agent, servant, or employee of any licensee shall violate any provision of this Ordinance, or such statute, law, or regulation, the violation shall also be a violation by the licensee. Any license issued hereunder may be revoked or suspended by the City Administrator if the licensee shall have violated any provision of this Ordinance or any provision of any statute, law, or regulation relating to the storage, sale, purchase, transporting, or

other traffic in alcoholic beverages.

B. Upon receiving information that a violation may have occurred, the City Administrator shall notify the licensee in question by certified mail of the alleged violation and of the time and place of the hearing. The rules of evidence governing civil proceedings in courts in the Commonwealth of Kentucky shall apply to all hearings except as modified or relaxed by the City Administrator. The City Administrator shall issue a written decision based on the evidence.

C. In the course of any one (1) day of operation of a licensed premises, should multiple violations of the Ordinance or other statutes or Ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the city police department, such re-occurrence shall be reported to the City Administrator by the Chief of Police. The City Administrator shall in the interest of public health, safety, morals and welfare direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City Administrator; such review shall occur on the next business day.

#### XIV. PENALTY

Any person, firm, or corporation who, acting by himself or through another, directly or indirectly violates any provision of this Ordinance, shall for the first offense be fined not less than \$100 nor more than \$200, or be imprisoned for not more than six months, or both; for the second and each subsequent offense, he shall be fined not less than \$200 nor more than \$500, or imprisoned not more than twelve months, or both. The penalties provided for in this section shall be in addition to the right of the City to revoke or suspend the offender's license. If the offender is a corporation, the principle officer or officers responsible for the violation may be imprisoned.

#### XV. IMMUNITY

All city officers, employees, agents, and representatives shall be immune from liability in implementing and carrying out this Ordinance and all rules and regulations connected therewith.

#### XVI. EFFECTIVE DATE

The provisions of this Ordinance shall apply to all licenses issued after the date of passage without regard to the date when application was made for these licenses. This Ordinance shall be effective upon its passage and publication.

#### XVII. SEVERABILITY

In the event any portion of any provision of this Ordinance is invalid for any reason, such invalidity shall not affect the



validity of any other portion of any provision.

PASSED FIRST READING, by roll call vote this the 22nd day of March, 1983.

AYES:	NAYS:	ABSENT:	ABSTAINING:
<u>Ken Campbell</u>	_____	_____	_____
<u>Everett Daniel</u>	_____	_____	_____
<u>Gary Woodlee</u>	_____	_____	_____
<u>Billy Ray Parrish</u>	_____	_____	_____
<u>Keith Fruits</u>	_____	_____	_____
<u>Willie Hampton</u>	_____	_____	_____

PASSED SECOND READING, by roll call vote this the 23rd day of March, 1983.

AYES:	NAYS:	ABSENT:	ABSTAINING:
<u>Everett Daniel</u>	<u>None</u>	<u>Keith Fruits</u>	<u>Willie Hampton</u>
<u>Gary Woodlee</u>	_____	_____	_____
<u>Billy Ray Parrish</u>	_____	_____	_____
<u>Ken Campbell</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Keith Fruits  
MAYOR

ATTEST:  
[Signature]  
CITY CLERK