

ORDINANCE 2013-~~06-26~~
AN ORDINANCE TO BE KNOWN AND CITED AS
AMENDMENT TO THE
"ALCOHOLIC BEVERAGE CONTROL ORDINANCE
OF THE CITY OF EDDYVILLE, KENTUCKY"

AN ORDINANCE AMENDING ARTICLE II SECTION 4(b) OF ORDINANCE 2013-04-01A, AS
AMENDED, PERTAINING TO ALCOHOL BEVERAGE CONTROL

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

SECTION ONE

That Ordinance number 2013-04-01A, as amended, Section 4(b) is
hereby amended to read as follows:

(b) The following kinds of alcoholic beverage licenses and no
others may be issued upon approval of the administrator, and
the fees payable therefore to the city shall be as follows:

~~(1) Distilled spirits and wine retail package license, per
annum...600.00~~

(1) Quota Retail Package License, per annum (distilled spirits,
wine)\$1,000.00

~~(2) Distilled spirits and wine special temporary liquor license per
event...100.00~~

(2) Special Temporary License per event (distilled spirits, wine,
malt...\$166.66

~~(3) Special temporary wine license per event...50.00~~

(3) Nonquota Type 3 Retail Drink License-Special private club
license (distilled spirits, wine, malt)...300.00

~~(4) Special private club license...300.00~~

(4) Special Sunday Retail Drink License, per annum....\$300.00

~~(5) Distilled spirits and wine special Sunday retail drink license,
per annum...\$300~~

(5) Nonquota Retail Malt Beverage Package License, per
annum...200.00

~~(6) Restaurant wine license, per annum~~

~~New Applicants....600.00~~

~~Applicants for renewal400.00~~

(6) Caterer's License, per annum...800.00

~~(7) Retail malt beverage license, per annum...200.00~~

(7) Nonquota Type 4 retail Malt Beverage Drink License per annum...\$200.00

~~(8) Special temporary retail malt beverage license, per event...25.00~~

(8) Limited Golf Course License, per annum (includes distilled spirits, wine and malt), per annum ...\$1,200.00

~~(9) Caterer's license, per annum...800.00~~

(9) Nonquota Type 2 Retail Drink License (includes distilled spirits, and wine, malt) restaurant, hotel/motel, supplemental bar...\$1,000.00

~~(10) Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine and malt beverages), per annum...\$800~~

(10) Limited Restaurant License (includes distilled spirits, wine malt) per annum ...\$1,200.00

~~(11) Distilled spirits and wine retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum...\$600.00~~

SECTION TWO

If any section, subsection, sentence, clause or phrase of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining portions of this ordinance.

SECTION THREE

All ordinances or parts or ordinances in conflict with this ordinance are hereby repealed.

SECTION FOUR

This ordinance shall take effect July 1, 2013, after its passage and publication according to law.

ORDINANCE 2013-04-01A
Section 4 (b) Amendment
ADOPTION
ALCOHOLIC BEVERAGE CONTROL ORDINANCE
OF THE CITY OF EDDYVILLE, KENTUCKY

PUBLICLY READ AND PASSED FIRST TIME:

6-26-13

PUBLICLY READ AND PASSED SECOND TIME:

7-1-13

APPROVED:

Nancy Slaton

Nancy Slaton
Mayor, City of Eddyville, Kentucky

ATTEST:

Lana Greene

Lana Greene
City Clerk, City of Eddyville, Kentucky

CITY OF EDDYVILLE, KENTUCKY
ORDINANCE NO. 2013-04-01A

**AN ORDINANCE REGULATING TO THE SALE OF ALCOHOLIC
BEVERAGES WITHIN THE CITY OF EDDYVILLE**

Whereas, a local option election was held January 15, 2013 and, as of March 22, 2013, the City of Eddyville gained status as a fourth class city, the results of which legalized the sale of alcoholic beverages within the city limits of Eddyville, and it is now incumbent upon the city to adopt an ordinance regulating the sale of alcohol within the city; and

Whereas, the city council has reviewed the Kentucky Revised Statutes and the Kentucky Administrative Regulations applicable to the sale of alcoholic beverages, has consulted with attorneys and other authorities, and proposes the following ordinance for adoption for the regulation and administration of the sale of alcoholic beverages within the city;

Whereas, The City Council of the City, pursuant to KRS 242,185, has determined that economic hardship exists within the City, and that the sale of alcoholic beverages by the drink could aid economic development, the City Council adopts this Ordinance, i.e. the "Alcoholic Beverage Control Ordinance of the City of Eddyville", as a comprehensive, regulatory ordinance covering, the licensing and operations of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

NOW THEREFORE, BE IT HEREBY ORDAINED by the City of Eddyville as follows:

**SECTION I
GENERAL PROVISIONS:**

Sec. 1. Short Title

This ordinance shall be known, and may be cited as the "Alcoholic Beverage Control Ordinance of the City of Eddyville.

Sec. 2. Definitions

The words and phrases used in this ordinance shall have the same meaning as defined in KRS Chapters 241, 242, 243 and 244. As used herein the term "hotels" shall include motels.

Sec. 3. Scope

The provisions of this ordinance shall be applicable to the sale and traffic in alcoholic beverages within the city limits, unless specifically provided to the contrary.

Sec. 4. Adoption of state alcoholic beverage laws

The provisions of the Alcoholic Beverage Control Law of the State of Kentucky, including KRS Chapters 241, 242, 243 and 244 and the regulations of the state alcoholic beverage control board, as the same may from time to time be amended, are hereby adopted as part of the alcoholic beverage control law of the city, except as otherwise lawfully provided herein.

Sec. 5. City alcoholic beverage control administrator

- (a) Under authority of KRS 241.160 there is hereby created the office of city alcoholic beverage administrator for the city (hereinafter in this ordinance referred to as the administrator), who shall have the duties and functions prescribed by KRS Ordinance 241. The administrator may or may not be an officer or employee of the city, and shall be appointed by the city mayor. He shall also have such further duties and functions as are prescribed in this chapter.
- (b) The administrator, before entering upon his duties as such, shall take the oath as prescribed by Section 228 of the Constitution and shall execute a bond with a good and solvent, corporate surety in the sum of not less than one thousand dollars (\$1,000.00), faithfully to perform the duties of his office pursuant to the provisions of KRS 62.060 et seq.

Sec. 6. Compliance with alcoholic beverage control laws mandatory

No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this ordinance and all statutes and regulations of the state applicable thereto.

Sec. 7. Nonexclusive application

Nothing contained in this ordinance shall excuse or relieve any person from the restrictions, requirements and penalties of any other ordinances of the city, or of any statutes or regulations of the state relating to violations pertaining to alcoholic beverages.

Sec. 8. Advertising Restrictions

No sign, banner, poster, ornamental structure, statue, or other type of display or location marker advertising which refers, either directly or indirectly, to alcoholic beverages, shall be displayed on, nor shall it be visible from, the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the

business. This restriction shall not prevent any licensee from placing in the window of the licensed premises alcoholic beverage advertisement not larger than 18 inches height and 36 in width (576 square inches) in size.

No flashing, oscillating, rotating, shimmering, or other lights demonstrating movement, or the illusion of movement, shall be used to illuminate, or be visible from, the exterior of any premises licensed under this Ordinance.

It shall be unlawful for any person holding any license under this Ordinance to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.

Sec. 9. Advertising by handbills, circulars and cards prohibited

No licensee under this ordinance shall distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.

Sec. 10. Prizes prohibited

No licensee under this ordinance shall 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.

Sec. 11. Books and records

Every licensee under this ordinance 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 reasonable rules and regulations of the state alcoholic beverage control board. Such books and records shall be available at all reasonable times for inspection by the administrator.

Sec. 12. Prohibiting intoxicated persons on licensed premises

No licensee under this ordinance shall permit any person to become drunk or intoxicated on the licensed premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

Sec. 13. Opening of and drinking contents of containers on licensed premises

No licensee to sell alcoholic beverages at retail under this ordinance shall permit any person, other than employees of the licensee, to open any container of alcoholic beverages, and no container of alcoholic beverages shall be opened nor its contents consumed on the licensed premises. unless the licensee holds a retail drink license.

Sec. 14. Beverages found outside locked compartment when sale prohibited

If any alcoholic beverages are found on the outside of the locked or closed-off compartment of any licensed premises at which a license is held to sell alcoholic beverages at retail, at any hours during which the licensee is prohibited by law from selling such alcoholic beverages, a prima facie presumption shall arise that such alcoholic beverages were kept on the outside of the locked or closed-off compartment for the purpose of sale in violation of this ordinance and of the state alcoholic beverage control laws, and such shall be grounds for revocation or suspension of the license, and in addition to other penalties provided for violations of this section, the administrator shall be and he is hereby authorized to confiscate such alcoholic beverages.

Sec. 15. Hours of sale and delivery; Sunday sales

- (a) Except as otherwise provided under this section, the lawful operating hours for licensed retail premises under this article for retail package sales and on- premises consumption of distilled spirits, wine and malt beverages shall only be permitted for each day of Monday through Saturday, and shall be limited to the following periods of time:

License	Opening Hour	Closing Hour
Package sales:		
Malt beverages/beer	6:00 a.m.	12:00 Midnight
Distilled spirits	6:00 a.m.	12:00 Midnight
On-premises consumption:		
Malt beverages/beer	6:00 a.m.	1:00 following day
Distilled spirits	6:00 a.m.	1:00 following day

- (b) Package sales are prohibited on Sundays.
- (c) The sale of distilled spirits, wine, and malt beverages by the drink shall be permitted on Sundays from 1:00 p.m. until 10:00 p.m. for hotels, motels, and restaurants which are licensed for the retail sale of distilled spirits, wine and/or malt beverages by the drink; provided such hotel, motel, and restaurant satisfy the following conditions:
- (1) Licenses shall only be issued to hotels, motels, and inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) person or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.

The licensee shall only be permitted to sell such type of alcoholic beverage for which it is licensed.

- (d) In the event that New Year's Eve falls on a Sunday, licensees holding a distilled spirits, wine, and/or malt beverages by the drink license or having a private club license shall have the right to sell distilled spirits, wine, and/or malt beverages

- by the drink on such Sundays from 1:00 p.m. until 1:00 a.m. the following day.
- (e) All alcohol sales are prohibited during the hours the polls are open for a primary, regular, school or special election.
 - (f) The licensee shall ensure that at the closing hour all patrons shall have vacated the premises. Operators and their employees, engaged in regular and ordinary post-closing activities may be on the premises during the closed hours, provided that the licensee has complied with subsection (g) below.
 - (g) If a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section.

SECTION II LICENSES

Sec. 1. Required

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 having procured a license as provided for in this article.

Sec. 2. Application

Any person desiring a license to sell, deal in, traffic or possess for sale, alcoholic beverages as provided for by this article shall make a written application to the administrator, stating the street and number of the premises where he expects to carry on the business sought to be licensed. No license shall be issued to any person or to any premises, or to any part of a building other than that approved by the administrator in such license application.

Sec. 3. Examination of applicants under oath

The administrator shall have the power to examine or cause to be examined under oath any applicant for a license under the provisions of this article, and to examine or cause to be examined the books and records of such applicant; to hear testimony or to take proof upon the fitness of the applicant for a license or the fitness of his proposed place of business.

Sec. 4. License Fees

- (a) No license under the provisions of this article shall be issued until there has been paid to the city the license fee herein provided.

(b) The following kinds of alcoholic beverage licenses and no others may be issued upon approval of the administrator, and the fees payable therefore to the city shall be as follows:

- (1) ~~Distilled spirits and wine retail package license, per annum ... 600.00~~
Quota Retail Package License, per annum (distilled spirits, wine)
...\$1,000.00
- (2) ~~Distilled spirits and wine special temporary liquor license per event...100.00~~
Special Temporary License, per event (distilled spirits, wine, malt)
...\$166.66
- ~~(3) Special temporary wine license per event ... 50.00~~
- (3) Nonquota Type 3 Retail Drink License-Special private club license
(distilled spirits, wine, malt) . . . 300.00
- (4) ~~Distilled spirits and wine special~~ Special Sunday Retail Drink License, per
annum...\$300
- ~~(6) Restaurant wine license, per annum~~
~~New Applicants....600.00~~
~~Applicants for renewal.....400.00~~
- (5) Nonquota Retail Malt Beverage Package License, per annum....200.00
- ~~(8) Special temporary retail malt beverage license, per event....25.00~~
- (6) Caterer's License, per annum.....800.00
- (7) ~~Limited restaurant license or limited~~ Golf Course License, per annum
(includes distilled spirits, wine and malt beverages), per annum.... \$800
\$1,200.00
- (8) Nonquota Type 2 Retail Drink License (includes distilled spirits, and
wine, malt) restaurant, hotel/motel, supplemental bar ...\$1,000.00 ~~retail~~
~~drink license, motel drink license, restaurant drink license, or~~
~~supplemental bar license, per annum.....\$600.00~~
- (9) Nonquota Type 4 Retail Malt Beverage Drink License per annum
...\$200.00
- (10) Limited Restaurant License (includes distilled spirits, wine, malt) per
annum ...\$1,200.00

- (c) All license fees from licenses issued under this article shall be collected and paid into the general fund of the city for use for the general operating expenses of the city.
- (d) When any applicant applies for a license under the provisions of this article to commence business after the first of July of any year, such applicant 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 remaining in the license year, including the month within the license is granted; provided, however, that no fractional fee shall be permitted where the applicant has actually been doing business under a similar license during the last month of the preceding license period.
- (e) If any license issued hereto shall be revoked or cancelled for any reason, the licensee shall not be entitled to a refund of any portion of the license fee.

Sec. 5. Regulatory Fee

A regulatory license fee is imposed upon the gross receipts of each establishment licensed to sell alcoholic beverages. The regulatory license fee is for the purpose of insuring full reimbursement to the City of Eddyville for the costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the City of Eddyville. 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.

Payments of the Regulatory License Fee shall accompany tax returns approved for use by the City Clerk, submitted to the City Clerk on the 15th day of each month for the preceding month's sales. There shall be a monthly credit representing the pro rata portion of the initial license cost for which provision is made in this Ordinance.

The regulatory license fee shall be six percent (6%) for the licensing year beginning July 1, 2013 and continuing thereafter until amended or repealed.

Sec. 6. Authority of administrator to reject or grant

The administrator shall be the sole judge of the fitness of any applicant to be granted any of the licenses provided for in this article and of the fitness of the location where any applicant may propose to engage in the business authorized by any of the licenses provided for herein. He shall have the power to authorize any of the licenses provided for herein to such person applying therefor, or shall have the right to reject the application and decline to authorize the issuance of

the license. The administrator will authorize issuance of the license provided for in this article only to persons who meet the criteria for issuance of state licenses under KRS 243.100 and KRS 243.450.

Sec. 7. Approval of premises selling by the drink by health department required

The administrator shall not authorize a license for the retail sale of alcoholic beverages by the drink, until the applicant and his place of business have been approved by the county health department.

Sec. 8. License not to issue where principal trade with school children

No license shall be issued to any applicant for the sale at retail of any alcoholic beverage at any business premises where a majority of the business conducted therein is with school children who are regularly attending private, public or parochial schools.

Sec. 9. Inspection of licensed premises ~ authority of administrator

All applicants for a license under the provisions of this article shall, at the time of making an application for a license, make and execute a permit signed by the applicant and providing that the administrator may inspect and search the licensed premises at any time. Such permit for inspection and search shall be attached to and filed with the application and shall be considered a part thereof.

Sec. 10. Conditions of license granted

All licenses granted under this article shall be granted subject to the following conditions, as well as at other conditions of other ordinances, regulations, statutes, or laws of the city or state applicable thereto.

- (1) Every hotel and private club that procures a license under this article shall be entitled to serve alcoholic beverages as permitted by such license in a separate room or rooms at banquets or dinners or where meals are served; however, no hotel or private club shall maintain or operate, or permit to be operated more than one bar or room where alcoholic beverages are dispensed for sale and which is opened to the general public, without first obtaining a separate license for each bar or room which is opened to the general public.
- (2) Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises, and no nuisance suffered, permitted or maintained thereon.

- (3) No gambling or game of chance shall be permitted in any form upon such licensed premises. Dice, slot machines or any devices of chance are prohibited and shall not be kept on such premises.
- (4) No radio receiving apparatus shall be kept or maintained on the licensed premises which can be adjusted so as to receive police messages broadcast from the police radio station as it now or may hereafter be operated. In addition to the other penalties provided herein, for violation of this section the chief of police or the administrator shall have the authority to confiscate any and all such radio receiving apparatus.
- (5) It shall be unlawful for any licensee under this article to keep or sell, or permit to be kept or sold or used on the licensed premises any controlled substances.

Sec. 11. Mandatory Responsible Beverage Service Training

(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 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.

- a) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City-approved responsible beverage service training program. For a responsible beverage service training program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxication. The City will not require enrollment in particular classes, but only that the training be obtained from a recognized program meeting the goals expressed in this Ordinance.
- b) All persons required to complete training under paragraph (a) above shall complete that training within ninety (90) days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in responsible beverage service training from a program approved by the City not less than once every three years thereafter.
- c) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the CABC a record or file on each employee that shall contain the pertinent training information.

- d) Any person working at a special event for which a temporary alcoholic beverage license has been approved shall not be required to comply with this section.

Sec. 12. Posting of license mandatory

Every license issued pursuant to this article shall be posted and shall remain in a conspicuous place in the room where the business is carried on. Should any license be lost or destroyed without fault of the licensee, a duplicate in lieu thereof shall be issued at the direction of the administrator on being satisfied of the facts. A fee of one dollar (\$1.00) shall be charged for such duplicate.

Sec. 13. Transfer

- (a) No license to sell alcoholic beverage shall be transferable either as to the licensee or the licensed premises except as provided in the alcoholic beverage control laws of the state, and not then until approval by the administrator and payment to the city of a transfer fee of five dollars (\$5.00).
- (b) No assignment of any license issued under this article shall be made except by order of any court of competent jurisdiction and with the approval of the administrator.

Sec. 14. Revocation or suspension

- (a) Whenever any licensee shall violate any of the provisions of this article or any other ordinance relating to the subject of alcoholic beverage control, or any of the rules and regulations of the administrator, or any of the provisions of the alcoholic beverage control law of the state, or any amendments or supplements thereto, or any of the rules and regulations adopted by the state alcoholic beverage control board, or any acts of Congress, or rule or regulation of any federal board, agency or commission relative to the regulation and taxation of alcoholic beverages, or upon conviction by a court of competent jurisdiction of any such violation, the administrator is hereby authorized and empowered to order the revocation or suspension of any licenses issued under this article. For purpose of this section, a violation by any duly authorized agent or employee of a licensee shall constitute a violation by the licensee.
- (b) Any revocation of the authorization of the state of any licensee to engage in the sale or traffic of alcoholic beverages shall automatically revoke the licenses issued therefor by the city.

Sec. 15. Expiration date

The licenses permitted under the provisions of this article shall be issued for a period of not more than one year, and every license issued hereunder shall expire on the thirtieth day of June of each year.

**SECTION III
PENALTIES**

Sec. 1.

(A.) Any person who violates any provision of this ordinance for which no specific penalty is otherwise provided shall, upon conviction, be guilty of a misdemeanor and shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) and not more than Two Hundred Dollars (\$200.00), or be imprisoned in the county jail for not more than six (6) months or both; and for the second and each subsequent violation shall be fined not less than Two Hundred Dollars (\$200.00), or more than Five Hundred Dollars (\$500.00), or be imprisoned in the county jail for not more than twelve (12) months or both. If a person who violates any provision of this Article is a corporation, partnership, joint stock company, association, or fiduciary, than the president and/or the principle officer or partner responsible for such violations may be punished by fine or imprisonment as authorized by this Section.

(B.) Any person who violates any provision of this ordinance is guilty of a civil offense, and the city may elect to pursue under either paragraph A. or B. The offender, upon conviction, shall be subject to a civil penalty Two Hundred Fifty Dollars (\$250.00), plus court costs, and reasonable attorney fees, for each violation and offense, which shall be recovered by the city in a civil action in the nature of debt, and if not paid within thirty (30) continuous calendar days after citation for the violation, offense, or other failure to comply with the provisions of this chapter.

SECTION IV

Any and all existing ordinances inconsistent with this ordinance are repealed.

SECTION V

If any section, subsection, sentence, clause or phrase of this ordinance is held unconstitutional or otherwise invalid, such infirmities shall not affect the validity of the remaining portions of this ordinance.

SECTION VI

This ordinance shall become effective upon its passage, approval and publication according to law.

PUBLICLY READ FOR FIRST READING: 5-22-2013

PUBLICLY READ FOR SECOND READING: 06-03-2013

APPROVED:

MAYOR
NANCY SLATON

ATTEST:

CITY CLERK/TREASURER
LANA GREENE
CITY OF EDDYVILLE