

ORDINANCE NUMBER 640

BE IT ORDAINED BY THE CITY OF BRANDENBURG, KENTUCKY.

AN ORDINANCE AMENDING ORDINANCE NO. 534, RELATED TO THE LICENSING AND REGULATION OF THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE BRANDENBURG CITY LIMITS

I, Jessica Brown Roberts, an attorney licensed to practice law in the Commonwealth of Kentucky, do hereby certify that the following constitutes a summary of the contents of Ordinance Number 640 which has been read by the Brandenburg City Council on two separate days and has been adopted by a majority vote of quorum present and has been signed by the Mayor. This summary is prepared in accordance with KRS.83A.060(9).

The contents of said ordinance are as follows:

The ordinance closes amends Ordinance No. 534, relating to the Licensing and Regulation of the Sale of Alcoholic Beverages within the city limits of Brandenburg, Kentucky, as follows:

Section II is amended to set forth when a license is required.

Section IV License Fees is amended to establish regulatory license fees.

Section VI is amended to establish the hours sales of alcohol are prohibited.

Section VII is amended to establish January 31 as the date of termination of licenses.

Section VIII is amended to conform to KRS 244.090.

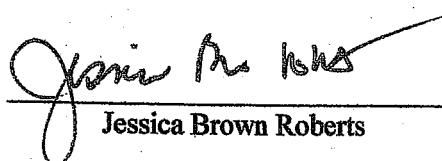
Section XV establishes the duties of the City ABC Administrator.

Section XVII governs the Transfer or Assignment of License.

Section XVIII establishes the criteria for approval or denial of a license.

This Ordinance is on file in the office of the City Clerk, Brandenburg City Hall, Brandenburg, Kentucky 40108. This Ordinance may be examined during business hours and copies may be obtained from the City Clerk.

1st reading September 09, 2024
2nd reading October 14, 2024



Jessica Brown Roberts

ORDINANCE NO. 640

AN ORDINANCE AMENDING ORDINANCE NO. 534, RELATED TO
THE LICENSING AND REGULATION OF THE SALE OF ALCOHOLIC
BEVERAGES WITHIN THE BRANDENBURG CITY LIMITS

WHEREAS, various Kentucky Revised Statutes allow for the regulation and licensing of the sale of alcoholic beverages within the limits of a city; and

WHEREAS, specifically, KRS 242.1244 authorizes, by petition in accordance with KRS 242.020, a city in which prohibition is in effect, to hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of fifty (50) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food if said alcoholic beverages are purchased in conjunction with a meal; and

WHEREAS, KRS 242.1244 further authorizes one local government of a jurisdiction in which such alcoholic beverage sales are authorized and permitted to adopt rules and regulations and establish fees or taxes with regards to such sales along with any other reasonable administrative regulations as may be necessary for the enforcement or administration of that statute, and the rules and regulations and taxes and fees adopted pursuant to this authority shall conform to the requirements of KRS 241.190 and KRS 242.185; and

WHEREAS, a local option election was conducted pursuant to KRS 242.1244 for the limited sale of alcoholic beverages in the City of Brandenburg, and the majority of voters voting thereon approved of such; and

WHEREAS, KRS 242.1244 and KRS 242.185 and all other applicable State laws permit the imposition of an annual license fee and a regulatory fee, which is based upon the gross receipts of each establishment's license in the City to sell alcoholic beverages; and

WHEREAS, the above statutes further provide for the establishment and collection of certain fees, fines and penalties related to the limited sale of alcoholic beverages; and

WHEREAS, the regulatory fee which is thereby authorized is to be set at a percentage rate as shall be reasonably estimated as to fully reimburse the City for the estimated costs of any additional police, regulatory and administrative expenses relating to the sale of alcoholic beverages in City; and

WHEREAS, the Brandenburg City Council estimates that the additional costs listed above which are expected to be incurred for policing and regulating the sale of alcoholic beverages within the City of Brandenburg to be in the range of eight percent (8%) of the gross sales of alcoholic beverages in the City; and

WHEREAS, the City Council also believes that it is in the best interest of the City and its residents that reasonable hours for such licensed activity need to be established; and

WHEREAS, the City Council is further desirous of creating and imposing certain and proper restrictions and regulations for obtaining, holding and exercising a license herein, including the creation of a City ABC Administrator and a description of his or her

device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;

- (4) **BOTTLE.** Any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- (5) **BREWER.** Any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent.
- (6) **BREWERY.** Any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;
- (7) **BUILDING CONTAINING LICENSED PREMISES.** The licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;
- (8) **CATERER.** A corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guest;
- (9) **CHARITABLE ORGANIZATION.** A nonprofit entity recognized as exempt from federal taxation under section 501 (c) of the Internal Revenue Code (26 U.S.C. sec. 501 (c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;
- (10) **CIDER.** Any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider;
- (11) **CITY ABC ADMINSTRATOR.** As used in this chapter, the term "City ABC Administrator" shall mean city alcoholic beverage control administrator;
- (12) **CONVENTION CENTER.** Any facility which, in its usual and customary business, provides seating for a minimum of one thousand customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;
- (13) **CONVICTED and CONVICTION.** A finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;
- (14) **DISTILLED SPIRITS or SPIRITS.** Any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS

- Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;
- (15) **DISTILLER.** Any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky;
 - (16) **DISTILLERY.** Any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse;
 - (17) **DISTRIBUTOR.** Any person who distributes malt beverages for the purpose of being sold at retail;
 - (18) **HOTEL.** A hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;
 - (19) **LICENSE.** Any license issued pursuant to RRS Chapters 241 to 244;
 - (20) **LICENSEE.** Any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;
 - (21) **LIMITED RESTAURANT.**
A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under RRS 242.1244;
 - (22) **MALT BEVERAGE.** Any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt;
 - (23) **MANUFACTURE.** Distill, rectify, brew, bottle, and operate a winery;
 - (24) **MANUFACTURER.** A winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;
 - (25) **MINOR.** Any person who is not twenty-one (21) years of age or older;
 - (26) **PREMISES.** The land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exists equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license;
 - (27) **PRIVATE CLUB.** A nonprofit social, fraternal, military, or political organization, club or entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;

- (28) **PUBLIC NUISANCE.** A condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;
- (29) **QUALIFIED HISTORIC SITE.** A contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within commercial district listed in the National Register of Historic Places, or a site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served. Notwithstanding the provisions of this subsection:
- (a) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; and
 - (b) A not-for-profit or nonprofit facility listed on the National Register of Historic Places; shall be deemed a "qualified historic site" under this section;
- (30) **RECTIFIER.** Any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name;
- (31) **REPACKAGING.** The placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;
- (32) **RESTAURANT.** A facility where the usual and customary business is the serving of meals to consumers that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and beverage receipts from the sale of food;
- (33) **RETAIL CONTAINER.** Any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not;
- (34) **RETAIL OUTLET.** Retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers;
- (35) **RETAIL SALE.** Any sale where delivery is made in Kentucky to any consumers;
- (36) **RETAILER.** Any person who sells at retail any alcoholic beverage for the sale of which a license is required;
- (37) **SALE.** Any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage;
- (38) **SERVICE BAR.** A bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guest, or patrons are prohibited;

- (39) SELL. Includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage;
- (40) SMALL FARM WINERY. A winery producing wines, in an amount not to exceed fifty thousand (50,000) gallons in a calendar year;
- (41) SOUVENIR PACKAGE. A special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer;
- (42) SUPPLEMENTAL BAR. A bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures;
- (43) TERRITORY. A county, city, district, or precinct;
- (44) VEHICLE. Any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages;
- (45) WAREHOUSE. Any place in which alcoholic beverages are housed or stored;
- (46) WHOLESALE SALE. A sale to any person for the purpose of resale;
- (47) WHOLESALER. Any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;
- (48) WINE. The product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, sherry, or sake; and
- (49) WINERY. Any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

Section II LICENSE REQUIRED.

It shall be unlawful to sell or offer for sale at wholesale or at retail in the city any alcoholic beverage without having the appropriate wholesale or retail license hereinafter provided for, or in violation of the terms of such license. Each license issued shall be applicable only to the specific premises shown thereon and, shall not entitle the holder of the license to sell from any other premises within the city, unless otherwise authorized by state law.

Section III APPLICATION FOR LICENSE.

(A) Applications for licenses shall be made to the City Administrator, in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a corporation. Such applications shall be made on forms supplied by the City Administrator and no license shall be issued until completed in full and the appropriate fee therefor has been paid.

(B) All applicants, all officers of any applicant corporation, all persons holding ten percent (10%) ~~five percent (5%)~~ or more of the stock in an applicant corporation or owners or partners of an applicant partnership shall each submit fingerprints and a current color photograph of themselves with all other documents as required in the application process or during any subsequent renewal if not previously provided, or otherwise deemed necessary by the City Administrator.

(C) Any qualified applicant may submit the appropriate application for any one or more of the licenses for alcoholic beverage industry which the Department of Alcoholic Beverage Control has deemed available within the city limits of the City of Brandenburg. All such licenses are defined in KRS Chapter 243.0305 through KRS 243.355 and the City of Brandenburg hereby adopts the classification system utilized in those statutes for use within the City limits as well.

Section IV LICENSE FEES.

(A) The licenses authorized under this subchapter shall be divided into the following categories and the applicant shall, at the time of his application, pay to the City the appropriate fee for each license applied for:

- (1) Distilled spirit licenses as set forth in KRS 243.030:
 - (a) Distiller's License, per annum:.....\$500.00
 - (b) Rectifier's License, per annum:.....\$3,000.00
 - (c) Wholesaler's Distilled Spirit and Wine License,
per annum:..... \$3,000.00
 - (d) Quota retail package license, per annum:.....\$500.00
 - (e) Quota Retail Drink License, per annum:.....\$1,000.00
 - (f) Special temporary license, per event:.....\$166.66
 - (g) Nonquota Type 1 Retail Drink License (includes distilled spirits,
wine, and malt beverages), per annum:.....\$2,000.00

- (h) Nonquota Type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum:.....\$800.00
 - (i) Nonquota Type 2 retail drink license (includes only wine and malt beverages), per annum:.....\$600.00
 - (j) Nonquota Type 3 retail drink license (includes distilled spirits, wine, and malt beverages), per annum:.....\$300.00
 - (k) Distilled spirits and wine special temporary auction license, per event\$200.00
 - (l) Extended Hours Supplemental License, per annum:.....\$2,000.00
 - (m) Caterer's license, per annum:.....\$200.00
 - (n) Bottling House or Bottling House Storage License, per annum:\$1,000.00
 - (o) Special temporary alcoholic beverage license, per event:.....\$100.00
- (2) Malt beverage licenses as set forth in KRS 243.040, follows:
- (a) Brewer's license, per annum:.....\$500.00
 - (b) Microbrewery license, per annum:.....\$500.00
 - (c) Malt beverage distributor's license, per annum:.....\$400.00
 - (d) Nonquota retail malt beverage package license, per annum:.....\$200.00
 - (e) Nonquota type 4 retail malt beverage drink license, per annum:...\$200.00
 - (f) ~~Malt beverage brew-on-premises license, per annum:.....\$100.00~~
- (3) Limited restaurant license (includes distilled spirits, wine, and malt beverages), per annum:.....\$1,200.00
- (4) Limited golf course license (includes distilled spirits, wine, and malt beverages), per annum:.....\$500.00
- (5) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

(6) The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).

(B) Persons desiring to obtain a license hereunder for only part of a license year shall pay a prorated fee equal to as many twelfths of the annual license fee as there are calendar months remaining in the license year, including the month in which the license is granted. In no event shall the prorated license fee be less than one-half the full annual license fee.

(C) The license year shall be a twelve (12) month period commencing with the first day of the month for renewal of Meade County licenses according to the Revised Renewal Schedule promulgated by the Kentucky Alcoholic Beverage Control Board.

(D) Pursuant to KRS 242.1244 and KRS 242.185(5), each restaurant or dining facility holding a limited restaurant license shall further pay an annual regulatory fee in the amount of eight percent (8%) of that person's or business establishment's gross receipts on the sale of alcoholic beverages in the City of Brandenburg. The fee shall be paid to the City of Brandenburg quarterly and shall be accompanied by a completed and signed form that reports on the amount of sales of alcoholic beverages during the reported period. Copies of the forms required to be submitted to the City shall be made available by the City Clerk or the ABC Administrator of the City of Brandenburg. These returns and payments are due no later than by the end of the month immediately following the end of each calendar quarter. Licensees shall receive an annual ~~\$800.00~~ credit against this regulatory fee ~~as being the equal to the~~ amount paid for the annual limited restaurant/dining license fee provided for herein. This regulatory license fee may be amended from time to time to correspond with any increase in the estimated costs for any additional policing, regulatory or administrative related expenses as a result of the sale of alcoholic beverages in the City of Brandenburg.

Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee in the amount of five percent (5%) of that person's or business establishment's gross receipts on the sale of alcoholic beverages sold by the drink in the City of Brandenburg. In the case of retail sales of package distilled spirits and wine, the regulatory license fee shall be four percent (4%) of gross sales. The regulatory license fee shall be three percent (3%) on all gross retail sales of package malt beverages. The fee shall be paid to the City of Brandenburg quarterly and shall be accompanied by a completed and signed form that reports on the amount of sales of alcoholic beverages during the reported period. Copies of the forms required to be submitted to the City shall be made available by the City Clerk or the ABC Administrator of the City of Brandenburg. These returns and payments are due no later than the end of the month immediately following the end of each calendar quarter. Licensees shall receive an annual credit against this regulatory fee as being the amount paid for the annual license fee provided for herein. This regulatory license fee may be amended from time to time to correspond with any increase in the estimated costs for any additional policing, regulatory or administrative related expenses as a result of the sale of alcoholic beverages in the City of Brandenburg.

Payment of such regulatory fee shall be remitted to the City Administrator, and shall be held in a separate account maintained for the purpose of fully reimbursing the city for the estimated cost of any additional policing, regulatory, or administrative expense related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law.

A failure to pay such quarterly regulatory fee within ten (10) days of the due date hereunder shall constitute a violation of this Ordinance and shall subject the licensee to a suspension or revocation of his or her license.

The penalty for failure to file a return and pay the quarterly tax remittance by the due date is five percent (5%) of the tax for each ninety (90) days or any fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax due; provided, however, that in no case shall the penalty be less than ten dollars (\$10.00).

Interest at the rate of eight percent (8%) per annum will also apply to any late payments, accruing from the date when such payments are first due.

Every licensee under this Ordinance shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the State ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and any such City employees who may assist the City ABC Administrator in his or her review.

For the purpose of assisting the City ABC Administrator in enforcement of this Ordinance, every licensee required to file any reports to the State ABC Board under KRS 243.850 shall provide a copy of each such report to the City ABC Administrator. Copies of any and all other reports and other correspondences to the State ABC Board required by statute shall be furnished to the City ABC Administrator.

Any authorized State and local investigator may inspect any licensed premises, without first obtaining a search warrant.

Section V REASONS FOR DENIAL OF LICENSE.

No license provided for in this chapter shall be issued to:

(A) A person who has been convicted of a felony; except if the person has had his or her civil rights restored by the authority of the governor of the state in which the adjudication was made.

(B) A person whose license under this section has been revoked for any cause;

(C) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

(D) A partnership, unless all the members of the partnership shall be qualified to obtain such a license;

(E) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation would not be eligible to receive a license hereunder for any such reason;

(F) A person whose place of business is to be conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee;

(G) A person who has, within five (5) years of the application date, been convicted of a violation of any federal or state law concerning the manufacture, possession, transportation or sale of alcoholic beverages, or who shall have forfeited his bond to appear in court to answer charges for any such violation;

(H) Any person, firm or corporation not eligible for a state alcoholic beverage license regulating the sale of the same alcoholic beverages for which such person proposes to acquire a city license.

Section VI HOURS SALES PROHIBITED

Unless otherwise permitted under this subsection, no premises for which there has been granted any license for the sale of distilled spirits, wine or malt beverages, shall operate for any purpose between midnight and 6:00 a.m. Monday through Thursday and between 2:00 a.m. and 6:00 a.m. on Friday and Saturday. Provided, that if a licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits, wine and malt beverages, and all fixtures and apparatus connected with the alcohol business, and said department is kept locked during times mentioned above, the licensee shall be deemed to have complied with this section. Sale of alcoholic beverages (distilled spirits, wine or malt beverages) are specifically permitted ~~on Sunday as set forth above~~ and including election days and from 1:00 p.m. until midnight on Sundays.

The above paragraph notwithstanding, premises for which there has been granted any license for the sale of distilled spirits, wine or malt beverages, may remain open for any purpose until 2:00 a.m. Monday morning if the preceding Sunday is New Year's Eve.

Section VII TERMINATION OF LICENSE.

Each license issued hereunder shall terminate on ~~January~~ December 31, following the issuance thereof. Should any such license be issued by the city and any required city, county, or federal approval, certification or licensing not be obtained by the applicant or should same be voluntarily or involuntarily withdrawn, removed, relinquished or suspended, then the license issued hereunder by the city shall immediately become null and void and shall be surrendered to the City Administrator. Any license fee paid shall thereupon be automatically forfeited and shall not be prorated. Following a license suspension or revocation, a new license may be applied for upon the making of a new application and the payment of a new license fee.

REGULATIONS CONCERNING MINORS

Section VIII Regulations Concerning Minors

For the purpose of this Ordinance Section VIII the following definition shall apply unless the context clearly indicates or requires a different meaning.

"Premises" has the meaning it is given in Section I and KRS 241.010, and also means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

(A) It shall be unlawful for any person to sell alcoholic beverages to a person under twenty-one (21) years of age. Penalty, see Section XIII.

(B) ~~No person under the age twenty one (21) shall sell, serve, deliver or otherwise handle alcoholic beverages while in the employ of a business or person that is licensed to sell alcohol.~~ The provisions of KRS 244.090 shall govern persons whom licensees may not employ and shall apply to all licensees in the City of Brandenburg.

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

(D) It shall be unlawful for any person under the age of twenty-one (21) years to possess, purchase or attempt to purchase, or engage another to purchase for him or her, directly or indirectly, any alcoholic beverages.

(E) It shall be unlawful for any person under twenty-one (21) years of age to misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant or employee, to sell or serve any alcoholic beverages to the underage person.

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

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

(H) Except as provided in KRS 244.087 and 244.090, a licensee, or his or her agents, servants, or employees shall not permit any person under twenty-one (21) years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:

- (a) The usual and customary business of the establishment is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, small farm winery, distillery or brewery or winery tour, convenience store, grocery store, drug store, or similar establishment;

- (b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises;
- (c) Written approval had been granted by the department to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including but not limited to weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state director shall approve or deny the request in writing; or
- (d) The usual and customary business of the establishment is an entertainment facility where prebooked concerts are held. For the purpose of this paragraph, house bands, disc jockeys, and karaoke are not considered concerts. During the times minors are on the premises under this paragraph the licensee shall comply with all provisions of KRS 244.085

(I) Excepts as provided in subsection (G) of this section, a licensee or the licensee's agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(J) Except as provided in subsection (G) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sell alcoholic beverages by the package unless he or she is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(K) A violation of subsection (A), (B), (C), (D), (E), (F) or (G) of this section shall be deemed a status offense if committed by a person under the age of eighteen (18) subject to the jurisdiction of the juvenile session of the District Court.

(L) It shall be unlawful for any person to aid or assist any person under the age of twenty-one (21) years in purchasing, or having served or delivered to the underage person, or in any way procuring directly or indirectly any alcoholic beverages.

(M) No person under the age of twenty-one (21) may redeem a gift card or any portion of a gift card for the purchase of alcoholic beverages. A person holding a license under KRS 243.030 or 243.040 may redeem a gift card for the purchase of alcoholic beverages if the person presenting the card is twenty-one (21) years of age or older.

Section IX ENFORCEMENT BY STATE ALCOHOLIC BEVERAGE CONTROL BOARD.

Any fine or penalty imposed under this subchapter shall be in addition to and independent of any action which may be taken by, through or on behalf of the Kentucky Alcoholic Beverage Control Board or its agents.

Section X RETAIL PREMISES NOT TO BE DISORDERLY - ACTS CONSTITUTING DISORDERLY BEHAVIOR.

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

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

- (a) Engaging in fighting or in violent, tumultuous, or threatening behavior;
- (b) Making unreasonable noise;
- (c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency;
- (d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;
- (e) Creating a public nuisance;
- (f) Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or
- (g) Failing to maintain the minimum health, fire, safety, or sanitary standards established by the state or a local government, or by state administrative regulations, for the licensed premises.

Section XI SIGNS AND ADVERTISING

1. All signage shall be in compliance with any and all other existing rules, regulations, and ordinances of the City of Brandenburg and the City of Brandenburg Planning and Zoning Commission.

2. Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign per premises not over two (2) square feet that must be displayed from the inside of the window or interior of the business premises. No additional signs,

banners, posters or other types of display advertising which refer either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises menus or other price cards not larger than 11" X 14" in size, setting forth the price at which the licensee offers items for sale, including alcoholic beverages, or from placing in the windows business cards not larger than two and one-half inches (2½") in size, setting forth the price at which it offers alcoholic beverages for sale.

3. No flashing lights shall be used to illuminate the exterior of any licensed premises.

4. A licensee is not permitted to distribute or cause to be distributed any handbills, circulars, or cards as a medium for advertising alcoholic beverages.

5. Any advertising by any licensee under this Ordinance shall be in compliance with KRS 244.130.

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

Section XII PERMIT APPLICATION.

(A) Applications for such permit agreement shall be made to the City Administrator.

(1) In the event that the applicant is, or is seeking to be, an establishment serving alcoholic beverages, the application for outdoor dining permit agreement must first be approved (in addition to any documentation and/or application for status as a "licensed premises" under KRS Chapter 244) by the City Alcoholic Beverage Control Administrator.

(2) Such permit agreement may be suspended or revoked, for cause, upon hearing before the City Council.

(B) Applicants shall utilize the City's permit agreement application and form, as amended from time to time.

(C) Any applicant may appeal the denial of any application, or any licensee may appeal the suspension or revocation of any existing permit agreement, within thirty (30) days to the Meade Circuit Court, as provided by law.

Section XIII PACKAGING PROHIBITION.

No restaurant holding a permit under this subchapter shall serve, or allow to be served, to its patrons, invitees or other persons upon the permitted area, alcoholic beverages in original manufacturers' packaging.

Section XIV SERVER TRAINING IN ALCOHOL REGULATIONS (S.T.A.R. Training Requirements)

Every business or seller of alcohol by the drink shall be required to have at least one (1) employee on the premises at all times that alcohol is being served who has received STAR training through a state approved program.

Every package liquor or malt beverage retailer shall have at least one (1) employee who has received the STAR training through a state approved program and shall be responsible for training all other employees.

SECTION XV CITY ALCOHOL BEVERAGE CONTROL ADMINISTRATOR

1. The Mayor shall appoint, with approval from the city council, the Brandenburg Alcoholic Beverage Control Administrator ("City ABC Administrator") and any additional personnel who may assist him/her. The salary, if any, for the Office of City ABC Administrator and personnel shall be fixed by the Mayor and approved by the city council.

2. The City ABC Administrator shall have the power and authority to promulgate such regulations as may be necessary to implement this Ordinance, pursuant to KRS 241.190 and KRS 241.060.

3. The functions of the City ABC Administrator shall be the same with respect to the City's alcoholic beverages licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board (the "State ABC Board") with respect to State alcoholic beverages licenses and regulations, as provided in KRS 241.190; except that no regulations of or amendments to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than the regulations of the State ABC Board. Regulations of the City ABC Administrator shall only become effective upon the appropriate approval of such by the Brandenburg City Council.

4. The City ABC Administrator shall have all the authority as authorized under KRS Chapters 241 through 244.

5. No person shall be a City ABC Administrator, an Investigator, or an employee of the City under the supervision of the City ABC Administrator, who would be disqualified to be a member of the State ABC Board under KRS 241.100.

6. The City ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of alcohol licenses issued by the City as the State ABC Board has with respect to alcohol licenses issued by the State under KRS 241.060.

7. The City ABC Administrator, his or her subordinates, and/or the City of Brandenburg law enforcement officers, by this Ordinance shall have available at all reasonable times for their inspection, all books and records required to be maintained by licensees pursuant to KRS 244.150, and all other applicable State laws and regulations.

Further, the City ABC Administrator shall simultaneously receive copies of all reports by licensees to the State Alcoholic Beverage Control Board.

8. The City ABC Administrator, before entering upon his or her duties as such, shall take the oath prescribed in Section 228 of the Kentucky Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than One Thousand Dollars (\$1,000.00).

9. The City ABC Administrator may require any City employee under his or her supervision to execute a bond similar to the Administrator's in such a penal sum as the City ABC Administrator deems necessary.

10. The cost of the bonds provided for in paragraphs 8 and 9 of this section shall be borne by the City, in accordance with KRS 241.180.

11. Should the City ABC Administrator at anytime have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, has a criminal record, he or she shall have the authority to require such person to appear at the City of Brandenburg Police Department for the purpose of having his or her fingerprints taken.

12. Appeals from any order of the City ABC Administrator may be taken to the State Alcoholic Beverage Control Board by filing with the Board, within thirty (30) days, a certified copy of the orders of the City ABC Administrator from which the appeal is taken. Such matters at issue shall be heard by the Board as upon an original proceeding and the appeal shall be governed in accordance with KRS 241.200, KRS 243.550 and all other applicable State laws. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

SECTION XVI REFUSAL REVOCATION OR SUSPENSION OF LICENS

1. Any license may be refused, revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or regulation of the State ABC Board, or of the Department of Revenue relating to the regulation of the manufacture, sale, transportation or taxation of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale, transportation or taxation of intoxicating liquors, or of any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator, in the exercise of his or her sound discretion, deems sufficient.

2. A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known by him or her.

3. In addition to the above, the violation of any City Ordinance concerning alcoholic beverage licensing, sales or the administration thereof shall also be grounds for a refusal to issue or renew a license or suspension or revocation of a license.

4. No license for the sale or trafficking of alcoholic beverages shall be granted or renewed as to any person or entity that is delinquent in the payment of any taxes or fees due to the City at the time of their application for a license; nor shall any license be granted or renewed to sell alcoholic beverages upon any premises or property owned and/or occupied by any licensee from which there is due to the City any delinquent taxes or fees.

5. If a licensee becomes delinquent in the payment of any taxes due to the City at anytime during a license period, his or her license to sell any alcoholic beverages shall be subject to revocation or suspension.

6. The City ABC Administrator may, in his or her discretion, approve a license to sell alcoholic beverages after receiving from the City Clerk a written statement to the effect that the applicant for a license has paid or made satisfactory arrangements with the City Clerk to pay any indebtedness owed to the City for any unpaid and delinquent taxes or fees.

7. Any license may also be refused, revoked or suspended for the following reasons:

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

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

c. If any licensee or if any of his or her clerks, servants, agents or employees of the licensee shall have been convicted of any felony offense or convicted twice of any misdemeanor offense which is directly or indirectly attributable or related to the manufacture, sale or transportation of alcoholic beverages.

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

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

8. Within three (3) days after any order of revocation of a license becomes final, notice of the revocation shall be given to the licensee and to the owner of the licensed premises by the City. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this provision. The licensee shall at once surrender his and her license to the City ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of the Police, at the request of the City ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the City ABC Administrator.

9. When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.

10. If a license is suspended or revoked by an order of the City ABC Administrator, the licensee shall at once suspend all operations authorized under his or her license.

11. An appeal may be taken from any decision by the City ABC Administrator under this section to the State Alcoholic Beverage Control Board, pursuant to the provisions of KRS 241.200 and 243.550, and all other applicable State laws.

SECTION XVII TRANSFER OR ASSIGNMENT OF LICENSE

No license issued under this Ordinance shall be transferred or assigned either as to the licensee or to the location, except with prior approval of the City ABC Administrator and a payment of a One Hundred Dollar (\$100.00) fee made payable to the City of Brandenburg.

SECTION XVIII APPROVAL OR DENIAL OF AN APPLICATION OF A LICENSE

1. If upon review of a license application under this Ordinance, the City ABC Administrator determines that the applicant has complied with all the requirements and regulatory provisions of this Ordinance and of the applicable State law, that the premises sought to be licensed meets all the requirements of this Ordinance and applicable State law, and that there are no causes for denial of a license, the City ABC Administrator shall approve of the application and issue a license for the applicant.

2. The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his or her business premises shall have been approved by the Planning and Zoning Commission of the City, and any and all other inspections required by the Kentucky Building Code.

3. If the City ABC Administrator has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the Administrator may issue to the applicant a written order setting forth such violations and requiring the applicant to show cause why the requested license should be issued. The City ABC Administrator shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine any violation set forth in the show cause order issued by the City ABC Administrator. Any such evidentiary hearing requested or ordered shall be presided over by the City ABC Administrator who, upon conclusion of the evidentiary hearing, shall issue a final order addressing each alleged violation. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided under this section and applicable State law.

Section XIX PENALTY.

(A) Any person violating any provision of §§ II through VII and XIII shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500 for each offense and each day in which a violation shall occur shall be deemed to constitute a separate offense. Any person or licensee violating any provision of §§ II through VII twice in a 24-month period shall have, in addition to the fines involved, all alcoholic beverage licenses issued by the city revoked and all license fees paid shall thereupon be automatically forfeited and shall not be prorated.

(B) Any person who violates any provision of § VIII(A) shall be guilty of a misdemeanor and subject to a fine of \$ 100 and no more than \$500 in addition to court cost. The punishment provided herein shall apply not only to the holder of any alcoholic beverage licensee, but also to any employee or clerk of the licensee.

(C) Any person violating any provision of § VIII, other than VIII (A) & (J) shall be guilty of a violation and shall be fined a minimum of \$20 and a maximum of \$50 in addition to court costs.

(D) Any person who violates any provision of § VIII (J) shall be guilty of a misdemeanor and shall be subject to a fine of not less than \$100 and not more than \$500 in addition to court costs.

(E) Any owner or licensee of such establishment violating any provision of §X shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500 for each offense and each day in which a violation shall occur shall be deemed to constitute a separate offense. Any person or licensee violating any provision of §X twice in a 24month period shall have, in addition to the fines involved, all alcoholic beverage licenses issued by the city revoked and all license fees paid shall thereupon be automatically forfeited and shall not be prorated.

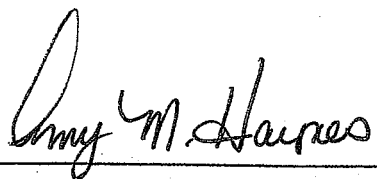
Section XX MISCELLANEOUS

(A) This ordinance shall take effect and be in force immediately upon its passage and publication as required by law.

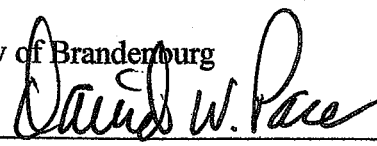
(B) If any section, subsection, sentence, or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(C) All ordinances or portions thereof in conflict herewith are hereby amended to the extent of such conflict.

This ordinance read for the first time on September 09, 2024, and having been read for the second time on October 14, 2024 was passed and shall be effective upon publication.



Amy Haynes, City Clerk

City of Brandenburg


David W. Pace, Mayor