

RECEIVED

CLARK COUNTY FISCAL COURT
CLARK COUNTY KENTUCKY
ORDINANCE NUMBER: 2002- 1

2002 JUN 20 A 10:06

ALCOHOLIC
BEVERAGE CONTROL

AN ORDINANCE AMENDING THE ORDINANCE REGULATING
THE SALE OF ALCOHOLIC BEVERAGES

WHEREAS, Ordinance Number 2001-11 became effective October 15, 2001, and,

WHEREAS, from time to time amendments in the state statutes may limit the activities which may be licensed by local government, and further revise or amend the maximum fees which may be charged for said licenses, and

WHEREAS, in order to provide for a more efficient local ordinance that would remain durable in light of state legislative changes, an amendment to the existing ordinance is necessary,

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court of County of Clark, Commonwealth of Kentucky, as follows:

SECTION ONE. Section 4, and 6 of Ordinance Number 2001-11, are hereby deleted and in substitution thereof the following is enacted: (Successive numerical sections shall be renumbered accordingly.)

Section 4. Types of Beverage Licenses. There are hereby created those types of alcoholic beverage licenses as may now be permitted under state law and as hereafter may be provided for by statutory revision or repeal. Business that may be conducted by the licensee of these licenses shall be as defined by state statute. It is the intent of the Clark County Fiscal Court to provide for licenses and license fees for all categories of alcoholic beverage licenses as permitted by state law. The fees for each such license shall be an amount equal to the statutory maximum as provided by state law now in effect or as hereafter may be provided by statutory revision or repeal.

INTRODUCED, upon motion by Magistrate Smith,
SECONDED by Magistrate McCord, and therefore passed by
unanimous vote, and was GIVEN FIRST READING at a duly convened meeting of
the Clark County Fiscal Court, held on this 22nd day of January, 2002.

INTRODUCED, upon motion by Magistrate Ramsey,
SECONDED by Magistrate Taylor, and therefore passed by

unanimous vote, and was GIVEN SECOND READING at a duly convened meeting of the Clark County Fiscal Court, held on this 13th day of February, 2002.



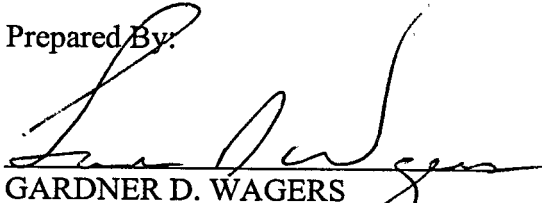
DREW GRAHAM
CLARK COUNTY JUDGE/EXECUTIVE

ATTEST:



ANITA S. JONES
CLARK COUNTY CLERK

Prepared By:



GARDNER D. WAGERS
CLARK COUNTY ATTORNEY

2001

CLARK COUNTY FISCAL COURT
ORDINANCE NO: 2001 - 11

AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES

WHEREAS, there has been change in state law regarding the regulation of the sale of alcoholic beverages, and

WHEREAS, in order to promote the health and welfare of the citizens of this county the regulation of the traffic in alcoholic beverages is necessary, and

WHEREAS, the county judge/executive, acting as county alcoholic beverage control administrator, is authorized by statute to administer the ordinances and regulations enacted there under,

NOW, THEREFORE, BE IT ORDAINED by the Clark County Fiscal Court as follows:

SECTION I: There shall be created a new section of the Clark County Code of Ordinances designated as Alcoholic Beverage Licenses the content as which shall be as follows:

Section 1 License required.

No person within Clark County, but outside the corporate boundaries of the City of Winchester, shall vend, sell, deal, or traffic, or, for the purpose of evading any law or provision of this ordinance, give away any intoxicating liquor in any quantity whatever, or cause the same to be done, without having procured a license as provided in this ordinance, nor without complying with all provisions of this and all statutes, ordinances and regulations applicable thereto.

Section 2 State license prerequisite to county license.

Except as provided in Section 3 license provided for in this ordinance shall be granted, issued or sold to any person until such person shall have obtained from the state administrator a license as provided by state law.

Section 3 Local approval required before application for state license.

Any person intending to make application for a license for a premises within the county, or for the transfer of any existing Retail Drink License, shall first make an application with and obtain the approval of the county alcoholic beverage control administrator as hereinafter provided before making application with the state alcoholic beverage control board.

Section 4 Types of beverage licenses.

There are hereby created the following types of alcoholic or malt beverage licenses:

Malt beverage license. A malt beverage license shall authorize the sale at retail of malt beverages in package form or for consumption on the premises in accordance with the Kentucky Revised Statutes.

Retail package license. A distilled spirits and wine retail package license shall authorize the licensee to purchase, receive, possess and sell distilled spirits and wine at retail in unbroken packages only, and only for consumption off the licensed premises in accordance with the Kentucky Revised Statutes.

Retail drink license. A distilled spirits and wine retail drink license shall authorize the licensee to purchase, receive, possess and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises in accordance with the requirements of the Kentucky Revised Statutes. A retail drink license shall not authorize the sale of distilled spirits or wine by package.

Restaurant wine license. A restaurant wine license shall authorize sale of wines for consumption on the premises by restaurants meeting the requirements set out in the Kentucky Revised Statutes.

Special private club license. A special private club license may be issued to any nonprofit social, fraternal, military or political organization or club, which for more than one (1) year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded. This license shall authorize the licensee to exercise the privilege of a distilled spirits and wine retail drink license at the designated premises if the general public is excluded. All restrictions and prohibitions applying to a distilled spirits and wine retail drink license shall apply to a special private club license.

Caterer's license. A caterer's license shall authorize the licensee to purchase and store alcoholic beverages, transport, sell, serve and deliver alcoholic beverages by the drink, receive and fill orders for alcoholic beverages and receive payment for alcoholic beverages served at a function on a by-the-drink or by-the-function basis in accordance with the Kentucky revised Statutes.

Malt beverage distributor's license. A distributor's license shall authorize the licensee to conduct the business authorized for such a license by the Kentucky Revised Statutes.

The fees for these licenses shall be as follows:

Malt Beverage License:

Per year.....	\$200.00
Per month or part of month.....	12.50
Retail package license.....	750.00

Retail drink license:

Per year.....	800.00
Per month or part of month.....	66.67

Restaurant wine license.....	300.00
Special private club license.....	300.00
Caterer's license.....	600.00
Malt beverage distributor's license.....	200.00

Section 5 Quotas.

Quotas for the various licenses authorized by this ordinance shall be those from time to time fixed by regulations of the state alcoholic beverage control board adopted pursuant to KRS section 241.060 and other applicable laws.

Section 6 Fees.

Fees for any license issued under provisions of this ordinance shall be in such amounts and under such conditions as the board of commissioners shall from time to time ordain or otherwise lawfully establish, subject to restrictions provided by state law.

Section 7 License period; prorating and abatement of fees.

All licenses issued pursuant to this ordinance shall expire on dates as set forth in KRS 243.090 (1) of the provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky, the regulations promulgated thereunder, and all amendments and supplements thereto. Copies of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky, and the regulations promulgated thereunder are hereby adopted by reference and made a part hereof as though copied at length herein.

Section 8 Persons who may not be licensed.

(a) No license shall be granted under this ordinance to any person not of good moral character and a full citizen of the United States and of Kentucky; nor shall any license be issued to any person who has habitually been a petty law offender, or has been convicted of an offense

against the laws of the state punishable by imprisonment in the state prison, unless the person so committed has been duly pardoned. The provisions of this section shall not apply to a corporation authorized to do business in Kentucky, but such provisions except the residence requirements shall apply to all officers and directors of any such corporation.

(b) No such license shall be granted to any person under twenty-one (21) years of age.

(c) No such license shall be granted to any corporation when more than fifty (50) per cent of the stock interest, legal or beneficial, is held by any person or person not eligible for a license under this ordinance.

Section 9 Premises for which licenses not to be issued.

(a) No license shall be granted for any premises that is located within a residential district except that a special private club license may be issued and, if so, a malt beverage license may be issued to the same licensee holding a special private club license for the same premises. Any premises shall be deemed to be included within a residence district if two-thirds ($2/3$) of the buildings within a radius of five hundred (500) feet are used exclusively for residence purposes or the uses incidental thereto, regardless of the zoning classification of the property.

(b) No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the city are delinquent and unpaid.

(c) No license shall be issued unless the premises to be licensed conform to the sanitary, safety, and health requirements of the city and the rules and regulations of the state board of health applicable to restaurants.

(d) No license shall be granted nor shall any application be accepted for any premises unless there is an established business operating upon the premises or the premises is at the time of the application ready to commence business.

Section 10 Conspicuous posting required.

Every license and permit issued pursuant to this ordinance shall be posted while in force in a conspicuous place in the room or place where intoxicating liquors are kept for sale.

Section 11 Duplicates.

Whenever a license or permit shall be lost or destroyed without fault on the part of the holder or his agent or employee, a duplicate in lieu thereof under the original application shall be issued by the county clerk on satisfying himself as to the facts, upon the payment of a renewal fee of ten dollars (\$10.00).

Section 12 Conditions to which license subject.

All licenses granted hereunder shall be granted subject to the following conditions as well as any other conditions of this ordinance, and subject to all other ordinances, statutes or regulations of the county of commonwealth applicable thereto:

(1) Every applicant procuring a license thereby consents to the entry of the sheriff or other duly authorized representatives of the county or commonwealth at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and ordinances there had in violation of county ordinances or state laws, and consents to the introduction of such things and ordinances in evidence in any prosecution that may be brought for such offenses.

(2) No person, firm or corporation holding a license under the provisions of this ordinance shall sell any intoxicating alcoholic liquor behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide it or screen it from public view.

(3) 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.

(4) No gambling or game of chance of any sort shall be permitted in any form upon the licensed premises. Dice, slot machines, or any device of chances are prohibited and shall not be kept upon the premises.

Section 13 Transferability

No license issued under provisions of this ordinance shall be transferable either as to license or location except as provided in this ordinance or by state law.

Section 14 Disposition of taxes and forfeited bonds.

All money derived from the collection of license taxes herein provided for, and all money derived from the forfeiture of bonds herein provided for, shall be paid into and become a part of the general fund of the county.

Section 15 Penalties

Any person commencing the operation of a business required to be licensed under provisions of this ordinance without first having acquired such license shall, upon conviction, be assessed the penalties provided therefor by statute, and, in all other cases, such person shall, upon conviction, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), with each day of operation without a license to be a separate offense. Violation of any other of the provisions of this ordinance shall, if a statutory offense, be assessed the penalty provided by statute, and, in all other cases, violators shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and if the violation is a continuing violation each day shall constitute a separate offense.

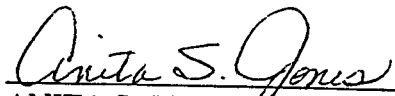
INTRODUCED, upon motion by Magistrate Thomas, SECONDED by Magistrate McCord, and therefore passed by unanimous vote, and was GIVEN FIRST READING at a duly convened meeting of the Clark County Fiscal Court, held on this 26th day of September, 2001.

INTRODUCED, upon motion by Magistrate Ramsey,
SECONDED by Magistrate McCord, and therefore passed by
unanimous vote, and was GIVEN SECOND READING at a duly convened meeting of the
Clark County Fiscal Court, held on this 15th day of October, 2001.

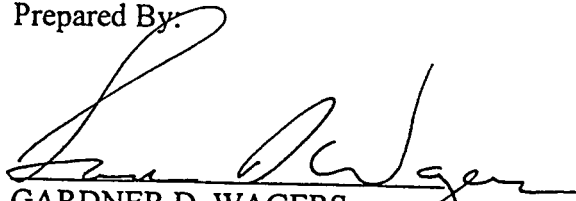


DREW GRAHAM
CLARK COUNTY JUDGE/EXECUTIVE

ATTEST:


ANITA S. JONES
CLARK COUNTY CLERK

Prepared By:


GARDNER D. WAGERS
CLARK COUNTY ATTORNEY

2001OrdiRegSaleAlcBev

CLARK COUNTY FISCAL COURT
RESOLUTION NO. 99- 5
RESOLUTION AUTHORIZING THE CLARK COUNTY
JUDGE/EXECUTIVE TO BE CLARK COUNTY
ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

WHEREAS, KRS 241.110, provides for the appointment of a County
Alcoholic Beverage Control Administrator for Clark County; and

WHEREAS, The Clark County Fiscal Court by resolution declares that regulation
of the traffic of alcoholic beverages in Clark County is desirable, and

WHEREAS, Clark County Fiscal Court deems it in the best interest that the Clark
County Judge/Executive, Drew Graham, be appointed as Clark County Alcoholic Beverage Control
Administrator,

NOW, THEREFORE, BE IT RESOLVED by the Clark County Fiscal Court that
the regulation of the traffic of alcoholic beverages in Clark County is desirable and that the County
Judge/Executive shall serve as the County Alcoholic Beverage Control Administrator.

Introduced upon Motion made by Magistrate Smith, seconded by
Magistrate M^c Cord, and passed by majority vote of the Clark County Fiscal Court in
duly session assembled, this 28th day of April, 1999.



DREW GRAHAM
CLARK COUNTY JUDGE/EXECUTIVE

ATTEST:



CLARK COUNTY CLERK

d.april2899abc

CLARK COUNTY FISCAL COURT

ORDINANCE NO. 96- _____

1996

AN ORDINANCE RELATING TO THE SALE OF MALT BEVERAGES ON SUNDAY

An Ordinance pertaining to public health, safety and welfare; regulating the sale of alcoholic beverages. Pursuant to Kentucky Revised Statutes, Chapter 244 and relating Administrative Regulations, Clark County, is authorized to establish times in which malt beverages may be sold within its jurisdictional boundaries.

NOW THEREFORE, BE IT ORDAINED by the Fiscal Court, Clark County, Kentucky, that this ordinance shall be known as the Sunday Beer Sales Ordinance. The Clark County Judge/Executive shall be responsible for the administration and management of this ordinance.

Section One: Restaurants within Clark County having a valid license to sell malt beverages and which have dining facilities with a minimum seating capacity of _____ people at tables and which receive at least fifty (50%) percent or more of their gross annual income from dining facilities by the sale of food may sell malt beverages otherwise in compliance with their existing license between the hours of 1:00 p.m. and 9:00 p.m. on Sundays. The sale of malt beverages on Sunday shall be subject to all existing limitations and requirements not in direct conflict with this ordinance.

Section Two: All Orders, Ordinances, or parts thereof, in conflict herewith to the extent of said conflict are hereby repealed.

Section Three. Provisions of this Ordinance are severable and if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance,

invalidity, unconstitutionality, or inapplicability shall not

1990

CLARK COUNTY FISCAL COURT
ORDINANCE NO. 90-_____

AN ORDINANCE PERMITTING THE SALES OF MALT BEVERAGES BETWEEN THE HOURS OF 1:00 P.M. AND 11:00 P.M. ON SUNDAYS AT RESTAURANTS WITH A MINIMUM SEATING CAPACITY OF 100 PEOPLE AT TABLES AND WHICH RECEIVE AT LEAST 50 PERCENT OR MORE OF THEIR GROSS ANNUAL INCOME FROM THEIR DINING FACILITIES FROM THE SALE OF FOOD.

WHEREAS, certain restaurants operating in the unincorporated areas of Clark County have petitioned the Clark County Fiscal Court to permit the sale of malt beverages on Sundays between the hours of 1:00 p.m. and 11:00 p.m. on Sundays, and

WHEREAS, KRS 244.480 permits the Fiscal Court of each County containing a city of a third class to have exclusive power to establish the times which malt beverages may be sold in the portion of the County that lies outside of the corporate limits of a city, and

WHEREAS, Fayette County permits the sale of alcoholic beverages on Sunday and as a result thereof, it places the restaurants within Clark County at an economic disadvantage, and

WHEREAS, the restaurant establishments in the unincorporated areas of Clark County which are licensed to sell malt beverages and which will be affected by this and have an exemplary record of compliance with all laws regarding the sale of alcoholic beverages, and

WHEREAS, the Clark County Fiscal Court is of the opinion that to permit the sales of malt beverages on Sunday in restaurants with a minimum seating capacity of 100 people at tables would be an economic benefit to the County,

NOW, THEREFORE, BE IT ORDAINED, by the Clark County Fiscal Court in duly session assembled as follows:

SECTION ONE. Pursuant to KRS 244.480, the Fiscal Court hereby authorizes the sale of malt beverages on Sunday between the hours of 1:00 p.m. and 11:00 p.m. at those restaurants outside of the corporate limits of Winchester which are otherwise licensed to

or more of their gross annual income from their dining facilities.

SECTION TWO. That all malt beverages sold pursuant to the terms of this Ordinance shall only be for consumption on the premises and the sale of malt beverages for carry out shall be strictly prohibited.

SECTION THREE. The sale of malt beverages on Sunday in a carry out manner ~~capacity~~ shall be a criminal offense and any person convicted of doing so shall be fined not less than \$50.00 nor more than \$250.00 or imprisoned for not more than five (5) days, or both such fine and imprisonment.

SECTION FOUR. Should this Ordinance be successfully challenged as to the validity of limiting sales to restaurants containing at least a seating capacity of at least 100 people at tables and which have at least 50 percent or more of their gross annual income from dining room facilities by the sale of food, then this entire Ordinance shall be declared invalid and Sunday sales of malt beverages shall then be prohibited.

SECTION FIVE. All previous Ordinances, Orders or parts thereof in conflict herewith to the extent of said conflict are hereby repealed.

SECTION SIX. This Ordinance shall take immediate effect upon final adoption and publication.

Introduced upon motion made by Magistrate _____, seconded by Magistrate _____, and passed for first reading by majority vote of the Clark County Fiscal Court on the ____ day of _____, 1990, and finally adopted after second reading upon motion made by Magistrate _____, seconded by Magistrate _____, and passed by majority vote of the Clark County Fiscal Court in duly session assembled on the ____ day of _____, 1990.

Clark County Judge/Executive

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CLARK COUNTY FISCAL COURT

ORDER No. 80-11

ALCOHOLIC
BEVERAGE CONTROL

AN ORDER ESTABLISHING A RESTAURANT WINE
RETAIL DRINK LICENSE FOR CLARK COUNTY, KENTUCKY

WHEREAS, the General Assembly of the Commonwealth of Kentucky enacted Kentucky Revised Statute 243.032 authorizing the issuance of a Restaurant Wine License for those restaurants which derive fifty (50%) percent or more of its gross annual income from the sale of food and which have a minimum seating capacity of fifty (50) people at tables, and

WHEREAS, Kentucky Revised Statute 243.060 authorizes the Fiscal Court of each County in which traffic in alcoholic beverages is permitted to impose a license fee for the privilege of trafficking in alcoholic beverages including Wine Retail Drink License, and

WHEREAS, the Clark County Fiscal Court deems it in the best interest of the County to impose a license fee for a Wine Retail Drink License,

NOW THEREFORE, IT IS ORDERED AND ADJUDGED by the Clark County Fiscal Court in duly session assembled as follows:

Section 1. That there is hereby imposed a license fee of One Hundred Fifty Dollars (\$150.00) for a Wine Retail Drink License for restaurants who make application for such a license under the provisions of Kentucky Revised Statute 243.032.

Section 2. The license year shall be from July 1 to June 30 of the next year.

Section 3. If an applicant applies for a Retail Drink License for a fractional portion of a year, he shall be charged a license fee of 1/12th of \$150.00 multiplied by the remaining months or fraction thereof in the licensing year.

Section 4. That all previous Orders, Ordinances or portions thereof of the Clark County Fiscal Court in conflict herewith to the extent of said conflict are hereby repealed.

Introduced upon Motion made by Magistrate *LADSON* and seconded by Magistrate *RAMSEY* and passed by majority vote of the Clark County Fiscal Court in duly session assembled, this 28th day of May, 1980.


CLARK COUNTY JUDGE/EXECUTIVE

ATTEST:


CLARK COUNTY COURT CLERK

ORDER IMPOSING A LICENSE FEE FOR THE PRIVILEGE OF OPERATING A
RETAIL LIQUOR BY THE DRINK ESTABLISHMENT

WHEREAS, KRS 243.060 authorizes the Fiscal Court in each County in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 to impose license fees for the privilege of trafficking in Alcoholic Beverages, and

WHEREAS, there is now within Clark County, but outside of the corporate limits of the City of Winchester, retail liquor by the drink establishments, and

WHEREAS, the Fiscal Court is of the opinion that said retail liquor by the drink establishments should pay a license fee for the privilege of doing business within the County,

NOW THEREFORE, BE IT RESOLVED by proper Order of the Fiscal Court of Clark County that a Retail Liquor by the Drink License fee of \$800.00 per annum is hereby imposed for the privilege of trafficking in retail liquor by the drink business, in the part of Clark County outside the corporate limits of Winchester, said license year to be for the period from July 1, until June 30 of each year with the first such licensing year to be from July 1, 1974 to June 30, 1975.

Be it further ordered that for the initial licensing year and the commencement of a new business during subsequent years an establishment shall only be charged on a per month basis for the portion of the license year which it is engaged in business.

Introduced and adopted by the majority vote at the regular meeting of the Clark County Fiscal Court on December 11th 1974.


Judge, Clark County Fiscal Court