

**COMMONWEALTH OF KENTUCKY
CITY OF HARTFORD
ORDINANCE NO. 2017-01**

ALCOHOL BEVERAGE CONTROL ORDINANCE

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

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

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

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF HARTFORD, KENTUCKY, that the following regulations and requirements are hereby adopted as set forth below:

**ARTICLE I
GENERAL PROVISIONS**

- A.** This Ordinance shall be known as the "Alcoholic Beverage Control Ordinance" of the City of Hartford, Kentucky (hereinafter referred to as the "City").
- B.** The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS Ch. 241 through 244.
- C.** The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the alcoholic beverage control laws (KRS Ch. 241 through 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.
- D.** This Ordinance shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this ordinance shall excuse or relieve the licensee, or the owner, proprietor, employee, agent, or person in charge of any licensed premises where alcoholic beverages are sold from

the restrictions, requirements, and penalties of any other ordinance of the city, or of any statutes of the state relating to violations pertaining to alcoholic beverages.

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

ARTICLE II LICENSE REQUIREMENTS

A. City Licenses

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

1.	Distiller's License, per annum	\$500.00
2.	Rectifier's License	
	a. Class A, per annum	\$3,000.00
	b. Class B (craft rectifier), per annum	\$960.00
3.	Wholesaler's License, per annum	\$3,000.00
4.	Quota Retail Package License, per annum	\$1,000.00
5.	Quota Retail Drink License, per annum	N/A
6.	Special Temporary License, per event	\$166.66
7.	Non-quota Type 1 Retail Drink License, per annum (includes distilled spirits, wine, and malt beverages)	\$2,000.00
8.	Non-quota Type 2 Retail Drink License, per annum (includes distilled spirits, wine, and malt beverages)	\$1,000.00
9.	Non-quota Type 3 Retail Drink License, per annum (includes distilled spirits, wine, and malt beverages)	\$300.00
10.	Special Temporary Alcohol Auction License, per event	\$200.00
11.	Special Sunday Retail Drink License, per annum	\$300.00

12.	Extended Hours Supplement License, per annum	\$2,000.00
13.	Caterer's License, per annum	\$800.00
14.	Bottling House or Bottling House Storage License, per annum	\$1,000.00
15.	Brewer's License, per annum	\$500.00
16.	Microbrewery License, per annum	\$500.00
17.	Malt Beverage Distributor's License, per annum	\$400.00
18.	Non-quota Retail Malt Beverage Package License, per annum	\$200.00
19.	Non-quota Type 4 Retail Malt Beverage Drink License, per annum	\$200.00
20.	Malt Beverage brew-on-premises License, per annum	\$100.00
21.	Limited Restaurant License, per annum	\$1,200.00
22.	Limited Golf Course License, per annum	\$1,200.00
23.	Authorized Public Consumption License, per annum	\$250.00

B. 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.

C. 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).

D. Certain Special Licenses Defined

(1) Limited Restaurant License. A Limited Restaurant License may be issued pursuant to KRS Chapter 243, if said restaurant meets the definition of a "Limited Restaurant" as set forth in KRS 241.010 (35), being a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, and which maintains seating capacity of either one hundred (100) or fifty (50) persons for dining. If the limited restaurant only maintains seating capacity for fifty (50) persons, it shall not have open bar and all alcoholic beverages shall be sold in conjunction with the sale of a meal. Distilled spirits, wine, and malt beverages shall be deemed to be purchased in conjunction with a meal if the

distilled spirits, wine, and malt beverages are served after the meal is ordered and no more than one-half (1/2) hour after the meal is completed.

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

(3) Non-quota Type 1 Retail Drink License ("NQ1"). A Non-quota Retail Drink License may be issued to an applicant operating as, or in, the following as defined by KRS 243.082: a Convention Center or a Convention Hotel Complex; a Horse Racetrack; an Automobile Racetrack; a Railroad System; a Commercial Airlines System or Charter Flight System, a Qualified Historic Site, and a State Park.

(4) Non-quota Type 2 Retail Drink License ("NQ2"). A Non-quota Retail Drink License may be issued pursuant to and as defined by KRS 243.084 to the following: (a) a Hotel that contains at least fifty (50) sleeping units, contains minimum dining seating for at least fifty (50) persons, and which receives fifty percent (50%) of its gross food and drinks sales are from the sale of food; (b) a restaurant that contains minimum dining seating for at least fifty (50) persons, and which receives fifty percent (50%) of its gross food and drinks sales from the sale of food; (c) an Airport; or (d) a Riverboat.

(5) Non-quota Type 3 Retail Drink License ("NQ3"). A Non-quota Type 3 Retail Drink License may be issued pursuant to and defined by KRS 243.086 to the following: (a) a Private Club in existence for longer than one (1) year prior to the license application and which excludes the general public; (b) a Dining Car, (c) a Distiller, and (4) a Bed and Breakfast.

(6) Non-quota Type 4 Retail Malt Beverage Drink License ("NQ4"). A Non-quota Type 4 Retail Malt Beverage Drink License may be issued pursuant to and as defined in KRS 243.088 to the following: a holder of a quota retail drink license; a holder of a microbrewery license; a holder of a small farm winery license; and any other business wishing to sell malt beverages by the drink for consumption on the premises only. A Non-quota Retail Malt Beverage Drink License shall not be issued to any premises from which gasoline and lubricating oil are sold, or from which the servicing and repair of motor vehicles is conducted, *unless* there is maintained in inventory for sale on the premises at retail not less than five thousand dollars (\$5,000) of food, groceries, and related products valued at cost.

(7) Special Temporary License. A Special Temporary License may be issued only as set forth in KRS 243.260 and 804 KAR 4:250. Such a license may be issued to any regularly organized fair, exposition, racing association, organized civic or community-sponsored event, or charitable event as defined by applicable law. This license shall authorize the licensee to exercise the privileges of a Quota Retail Drink Licensee *and* a Non-quota Type 4 Malt Beverage Drink Licensee (NQ4) at designated premises for a specified and limited time, which shall not exceed thirty (30) days and which shall expire when the qualifying event ends. All restrictions

and prohibitions applying to a distilled spirits and wine Quota Retail Drink License or a Non-quota Retail Malt Beverage Drink License shall apply also to a Special Temporary Licensee as described in this section. The City Council, pursuant to KRS 243.072, finds that an economic hardship exists, and that it would aid economic growth and provide community activities encouraging business opportunities if distilled spirit and wine sales by the drink were available as part of a special event license.

E. Expiration of License; Proration of Fees

All city licenses, except temporary licenses, shall begin on February 1 of any year and shall expire on January 31 of the following year as set forth in KRS 243.090 and 804 KAR 4:390. Any licenses issued after May 1 of any year shall be assessed a fee which is one-half (1/2) the amount of the full fee for an annual license of that type.

F. Payment of License Fees; Delinquency

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

G. Refund of Fees

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

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

H. Disposition of Fees and any other type of payment to the City

The City ABC Administrator shall transmit all fees and any other types of payment made to the City, upon collection, to the City Clerk, or his/her designee, for deposit into the appropriate designated account.

**ARTICLE III
CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR**

A. Alcoholic Beverage Control Administrator

(1) Pursuant to KRS 241.160 and KRS 241.170, there is hereby created the office of the City of Hartford Alcoholic Beverage Control Administrator ("City ABC Administrator").

(2) The Mayor of the City shall appoint an individual to serve as the City ABC Administrator, subject to approval of the City Council.

(3) The salary for the Office of City ABC Administrator, together with the salaries of any other personnel assisting the City ABC Administrator, if any, shall be fixed from time to time by the City Council.

(4) The City ABC Administrator may from time to time appoint such additional personnel, such as Alcohol Beverage Control investigator(s), as is necessary to assist him or her in the administration of this ordinance and/or any state laws or regulations. Any such appointments shall be subject to the approval of the Mayor and City Council.

(5) The functions of the City ABC Administrator shall be the same with respect to the city licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, and the City ABC Administrator and/or any assistant ABC Administrator shall have all authority as authorized under KRS Chapters 241 through 244, and other relevant state statutes. Further, the City ABC Administrator and City police officers are authorized to enforce this ordinance for violations. The City ABC Administrator and any investigator acting under the authority of the City ABC Administrator, shall have the full police powers of peace officers within the boundaries of the City of Hartford and they along with any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked without first obtaining a search warrant.

(6) Should the City ABC Administrator or any assistant ABC Administrator(s) at any time have probable cause to believe that any applicant, licensee, employee of a licensee or any stockholder, agent, or employee of a licensed corporation, of any member of any company has a criminal record, he or she shall have the authority to require such person to appear in person at the City Police Department for the purpose of having his or her fingerprints taken.

(7) To prevent potential conflicts of interests, no person shall be a City ABC Administrator, an investigator, or an employee of the city, under the supervision of the City ABC Administrator, who would be disqualified to be a member of the ABC Board under state law set forth in KRS 241.100.

(8) The City ABC administrator and his investigators shall have available at all reasonable times for their inspection all books and records required to be maintained by

licenses under KRS 244.150 and the City ABC Administrator shall receive copies of all reports submitted by licensee to the State Alcoholic Beverage Control Board.

(9) The City ABC Administrator, before entering upon his or her duties, shall take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000.00), the cost of which shall be paid by the City. Any employee delegated or assigned to the ABC Administration may also be asked to execute a similar bond in such penal sum as the City deems necessary unless said person is already covered under the City's active bonds as required under KRS in regards to officials and employees of the City.

B. Appeals

(1) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the City ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

(2) When any decision of the City ABC Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the city, and the ABC Board shall have made a decision regarding such appeal or protested application, the City ABC Administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by the final order of the ABC Board. As provided by law, and as used herein, no order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A "final order" of the ABC Board is the order entered by said Board, unless an appeal is taken from the Board's order, in which case the "final order" is the order entered by the Board upon direction from the reviewing court of last resort in the final order of said reviewing court.

ARTICLE IV APPLICATION AND MAINTENANCE OF LICENSE

A. Advertisement

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

(1) The advertisement shall state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership of the LLC if the applicant is an LLC, as well as the name of the business and its address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the license is sought, and the type of license for which application is made.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication is provided in KRS 424.170, along with a nonrefundable application fee of fifty dollars (\$50.00).

(3) It shall be unlawful to sell or offer for sale, or dispense, or have in his or her possession for sale, any alcoholic beverage(s) within the City of Hartford without having the appropriate 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 of Hartford.

B. Form of Application

(1) All licenses granted under this chapter shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the Kentucky ABC Board and/or the City, both of which may be amended and supplemented from time to time by each respective agency. No license shall be issued until the application is completed in full and the appropriate fee therefore has been paid. Any license issued to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(2) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought, as required by the Kentucky Revised Statutes, including KRS 243.390, the state ABC Board, and the City, including as follows:

- (a) Name and address;
- (b) Nature of interest;
- (c) Whether or not a citizen of the United States;
- (d) Date of birth;
- (e) Date residence was established in Kentucky, if a resident of Kentucky.
- (f) Whether or not he or she has any interest in any other license or LLC, corporation, partnership, or other business organization holding a license under this Ordinance;
- (g) Extent of stock or company ownership;
- (h) Whether or not he or she has any interest in any license or LLC, corporation, partnership, or other business organization holding a license in any other state or province.
- (i) The premises to be licensed, stating the street and number, or otherwise such a description that will reasonably indicate the location of the premises.

(3) Each application shall be accompanied by a certified check, cashier check, or money order for the amount of the license fee, less the nonrefundable fifty-dollar (\$50.00) application fee.

(4) Applications shall include an executed consent by the applicant to the inspection of the licensed premises, by the City ABC Administrator, where alcoholic beverages are sold, stored, or otherwise trafficked in, without first obtaining a search warrant. Additionally, the City ABC Administrator may confiscate any contraband property or items discovered at the premises.

(5) The applicant shall include documentary evidence of an application for a state license, which corresponds to the city license for which the application is being made.

(6) In addition to the above specified information, the applicant shall file, with the application, responses to any additional questions as may be posed or prescribed by the City ABC Administrator. The City Council has adopted a statement of guidelines and priorities for the issuance of licenses within this Ordinance to determine the extent to which applications may further, or impede, the objectives of those guidelines. Therefore, in addition to the information contained in the application, the City ABC Administrator may require such other information as the Administrator may, in his or her discretion, deem desirable, reasonable, or appropriate to the consideration of the application.

C. Other Conditions

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

(1) The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved and any and all other inspections required by the Kentucky Building Code and be in compliance of all other ordinances of the City.

(2) All applicants, all officers of any applicant corporation, all persons holding 5% or more of the stock in an applicant corporation, or owners or partners of an applicant partnership, shall each voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(3) No license to sell alcoholic or malt beverages may be granted or renewed to any person who is delinquent in the payment of any property taxes, both real and personal, any other taxes due to the City, fees of any type, or charges due to any department of the city at the time of issuing the license, nor may any license be granted or renewed to sell upon any premises or property, owned, and occupied by the licensee upon which there are any of the above delinquent payments due and owing to the City. Further, if a licensee becomes delinquent in the payment of any of the above at any time during the license period, the license to sell alcoholic or malt beverages may be subject to revocation or suspension;

(4) No person, whether applicant for license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence, or intimidate the City ABC Administrator, or any member of the City's staff, or any state ABC Administrator or staff, in any matter in which an application or proposed application for license, or procedure for revocation or suspension is pending before such officer. This division is not intended to stifle expressions of opinion; however, it is intended to make clear that the ABC Administrators are public officials charged

with the administration and enforcement of the law, both local and state. Any person applying for a license, or contesting the revocation or suspension of a license, who engages in attempted bribes, threats, attempted undue influence, or intimidation of a city or state ABC Administrator or staff shall be disqualified from receiving or retaining a license, in addition to other penalties as provided by law. The procedures for appeals shall apply to disqualifications, revocations, or suspensions under this Ordinance. Nothing in this Ordinance shall be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after a final order or revocation or suspension, where the Ordinance and applicable statutes allow for such payments in settlement.

D. Form of License

All city licenses shall be in such form as may be provided by the ABC Administrator, but at the least shall contain:

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, of the licensed premises;
- (5) The name and address of the owner of the building in which the licensed premises are located;
- (6) The expiration date of the license;
- (7) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

E. Change of Information

(1) If after a license to individuals or to a sole proprietor has been issued, there is a change in any fact required to be set forth in the application, a verified amendment in writing giving notice of the change shall be filed with the City ABC Administrator with ten (10) days of the change.

(2) Since a number of licenses issued by the city are in the name of corporations or other business organizations, it is necessary that ownership changes in such organizations be reported to the City ABC Administrator. The City ABC Administrator can, therefore, investigate the person to whom the ownership or management is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(3) As used with regard to a partnership, corporation, LLC or other business organization herein, the word "change" is construed to include any change in managers, partners, or LLC members, directors or officers of the corporation, or change in ownership or stock whereby any person secures ten percent (10%) of the outstanding ownership or stock. Transfer of more than ten percent (10%) of the total ownership or stock shall require a new license.

(4) The same information under "Form of Application" as set out above in Section IV(B)(2) shall be required concerning any new manager, partner, or LLC member, new director, officer, or person securing any interest in alcoholic beverage license.

(5) This information shall be filed with the City ABC Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made within ten (10) days of any change of required information.

F. Renewal of License

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

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

G. Lost or Destroyed License

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

H. Revocation or Suspension

(1) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of other provisions of KRS Chapters 241 through 244, or any rule or regulation of the ABC Board, or of the Kentucky Department of Revenue, relating to the regulation of the manufacture, sale, and transportation, or taxation, of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale, and transportation, or

taxation, of intoxicating liquors, or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Ch. 241 through 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his or her sound discretion deems sufficient.

(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.

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

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

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

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

(d) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this Ordinance, or 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 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.

(f) Failure to pay when due any tax or fee imposed by the City of Hartford.

I. Proceedings for Revocation or Suspension of License

(1) Upon verified complaint of any person, or in the event a citation for violation of any provision of this ordinance is issued, notification of the alleged violation shall be served in writing on the licensee by delivering a copy to the licensee's place of business in Hartford and by mailing a copy by U. S. Mail, postage prepaid, to the licensee's address as shown on the application for a license, giving notice that licensee may, within seven (7) days of the date of the notification, request an administrative hearing before the City ABC Administrator to determine the existence of a violation. Notice shall be sufficient if mailed to the licensee at the address shown on the last application for a license or in the last statement supplemental to

or in amendment of the application, whether or not the mailing is receipted for or claimed. The hearing shall be a trial type hearing with all parties having a right to counsel and all witnesses subject to cross-examination.

(2) After the hearing is concluded within thirty (30) business days, the City ABC Administrator shall issue findings of fact and decision.

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

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

(5) Appeal from the decision of the City ABC Administrator or Assistant ABC shall be to the State ABC Board within thirty (30) days from the date of the City ABC Administrator's decision. See KRS 241.200.

(6) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall at once suspend all operations authorized under his or her license. Upon the entry of a final order of the ABC Board sustaining or ordering revocation or suspension on appeal, the licensee shall at once suspend all operations authorized under this license.

(7) In the event of the payment of a monetary penalty in lieu of suspension, the monetary penalties shall be:

(a) Distillers, rectifiers, wineries, and brewers	\$ 1,000.00 per day
(b) Wholesale liquor licenses	\$ 400.00 per day
(c) Distributor beer licensees	\$ 400.00 per day
(d) Retail licensees authorized to sell distilled spirits, wine or beer by the package or drink	\$ 50.00 per day
(e) All remaining licensees	\$ 50.00 per day

J. Transfer or Assignment

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

K. Refusal of License; Guidelines for Approval of Quota Licenses

(1) The City ABC Administrator may refuse to issue a license for any of the following reasons:

(a) The applicant, the application, or the premises described therein do not fully comply with the provisions of this ordinance and all laws in regard to alcoholic beverages;

(b) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales or the administration thereof;

(c) If the applicant has done any act for which a revocation of license would be authorized under local, state, or federal law; or

(d) If the applicant has made any false material statement in his or her application;

(e) The applicant, his agent, or manager has been convicted of a felony;

(f) An applicant who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

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

(h) An applicant premise is located in the City of Hartford not zoned for commercial use under the zoning laws of the City of Hartford. This section shall not preclude the issuance of a license on premises for which a proper zoning change has been granted by the zoning board and City Council of Hartford;

(i) Failure to pay taxes (See KRS 243.490 (2)).

(2) The City Alcoholic Beverage Control Administrator shall, in the exercise of sound discretion, refuse to issue or renew an alcoholic beverage license to any person who has not conducted his business in a decent orderly manner or who is known to conduct or encourage a disorderly place of business or who permits or engages in disorderly conduct, or who has been convicted of any violation of any criminal or penal law, except minor traffic violations, during the two (2) years immediately preceding his application. It is hereby deemed and declared to be in the best interest of public health, welfare and safety that the Administrator shall have discretion to issue such licenses as he or she deems will promote the general welfare of the City of Hartford.

(3) An applicant who has been refused a license by the City ABC Administrator may appeal the refusal to the ABC Board pursuant to KRS 241.200.

L. Review of License; Books, Records and Reports

(1) Applicants to whom a license is issued pursuant to this chapter shall provide periodic information demonstrating compliance with the conditions of any license, such as, but not limited to, the continuing requirement that a minimum percentage of the applicant's business income is earned from the sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. The city shall provide the form schedule to the licensee. The licensee's acceptance of a license to manufacture or traffic in alcoholic beverages shall constitute consent to the filing of the quarterly report. In the case of caterer filing, the quarterly report shall identify each catered event by type of event, date and address of the event, and shall provide a per event breakdown of sales and the ratio of food sales to alcohol sales during the reporting period. This requirement for filing of reports notwithstanding, the city may at any time come upon the premises of any licensee and examine the books and records to determine whether the licensee is in compliance with all parts of this chapter. In the event the conditions of any license requirement are not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least one (1) year in determining whether or not the food sale percentage requirement has been met.

(2) 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 ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and such city employees who may assist the City ABC Administrator in his or her review.

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

M. Dormancy

(1) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.

(2) Any license under which no business is transacted during a period of ninety (90) days shall be deemed inactive and, unless the conditions set forth in subsection (3) below are proved to the satisfaction of the City ABC Administrator, the license shall be surrendered

to the City ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the City ABC Administrator.

(3) The provisions of subsection (2) hereof shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, whether acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Prior to the expiration of ninety (90) days of inactivity, such licensee shall furnish to the City ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business, for any of the specific reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted there under within twelve (12) months from the date of notice to the City ABC Administrator. Such extension may not extend beyond the renewal date but may be for such times as the City ABC Administrator deems appropriate in exercise of his or her sound discretion.

ARTICLE V HOURS FOR SALE

A. Hours for Sale

(1) An alcoholic beverages licensee shall be permitted to sell or dispense alcoholic beverages between the hours of 6:00a.m. until 12:00a.m. (midnight) C.S.T., Monday – Sunday.

(2) Licensees must obtain a Sunday retail drink license in order to sell malt beverages, distilled spirits, or wine by the drink on Sunday.

(3) A licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00a.m. C.S.T. on January 1, regardless of the day of the week on which New Year's Eve occurs; provided that the appropriate licenses have been obtained from both the City and the State ABC Board.

(4) All delivery of alcoholic beverages in the City shall be made between the hours of 6:00 a.m. and 12:00 midnight (C.S.T.), Monday through Saturday. No delivery shall occur on Sunday.

ARTICLE VI CONDITIONS, PROHIBITIONS AND RESTRICTIONS

A. Gambling

No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines,

quarter pushers, prize redemption machines with programmable payouts, or any device of chance is prohibited and shall not be kept on such premises.

B. Radio Receiving Apparatus

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

C. Security

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

D. Prizes and Premiums Prohibited

It shall be unlawful for a licensee to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of malt beverages unless permitted by KRS 244.500.

E. Treating Prohibited

It shall be unlawful for the licensee under this Ordinance to give away any alcoholic beverage in any quantity for free or for less than a full monetary consideration unless the licensee holds a sampling license or its license type permits limited free samples (i.e., small farm winery, microbrewery, brewer's) or products are sampled at educational event authorized by 804 KAR 1:110 and 804 KAR 11:030.

F. Drunkenness

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

G. Underage Sales

The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

H. Sign Requirements-Notice to Persons Under the Age of Twenty-One (21)

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

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

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

I. License to be Displayed

(1) Pursuant to the requirements set forth in KRS 243.895, the Licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(2) The licensee shall post in a prominent place easily seen by patrons a printed sign at least 11" x 14" in size, with letters at least one (1) inch high, supplied by the Department of Alcoholic Beverage Control, and with gender-neutral language supplied by the Kentucky Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this section shall be subject to a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00).

J. Legal Transactions for Wholesalers, Distributors and Retail

No wholesaler or distributor shall sell any alcoholic beverages to any person in the city for any consideration except under cash terms of the wholesaler or distributor at or before the time of delivery. A wholesaler is also permitted to extend credit for 30 days to a retailer for the purchase of distilled spirits and wine. No retail licensee shall sell to a consumer for any consideration except for cash or case equivalent at time of purchase.

K. Employment Restrictions

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

- (1) Has been convicted of any felony within the last two (2) years unless permitted by KRS 244.090(2);

(2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years unless permitted by KRS 244.090(2);

(3) Is under the age of eighteen (18) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute, unless said person is exempt or permitted by KRS 244.090 or KRS 244.087;

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

Violation of this subsection (K) shall, subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license

L. Lavatory Facilities Required

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

M. Cause for Revocation

Violation of this and any other Article shall subject the licensee to penalties provided in this Ordinance and shall be cause for revocation or suspension of City licenses.

**ARTICLE VII
MINORS**

A. Except as specifically authorized under KRS Chapters 241 through 244, no person under the age of 21 may possess alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages.

B. As provided in KRS 244.085, no person under the age of 21, except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. No person under the age of 21 may enter any premises licensed for drink sales of alcoholic beverages unless permitted by KRS 244.085(6). For purposes of this prohibition, "premises" specifically encompasses the entire lot upon which a licensed establishment is situated, including any drive-up window. The prohibition contained in this Subsection shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, or similar establishment.

C. No person shall knowingly permit, aid, assist, induce, cause, or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licenses, as set out in this Ordinance, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.

D. No person being the owner or occupant or otherwise in possession or control of any property located within the city shall knowingly allow any minor to remain on such property while in possession of, using, or consuming alcoholic beverages.

E. It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption, or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.090 or KRS 244.087.

ARTICLE VIII CONSUMPTION ON PREMISES PROHIBITED

A. Consumption at Package Store Prohibited

(1) No licensee of a package store, whether trafficking in distilled spirits, wine, or malt beverages, shall permit consumption of alcoholic beverages on the premises unless it also holds the appropriate drink license. The licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.

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

B. Habitual Congregating

(1) Definitions. In addition to the definitions contained in KRS Chapters 241 through 244, as used in this Article, the following terms are defined as follows:

(a) *Habitual* shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;

(b) *Package Liquor Store* shall mean a retail establishment selling distilled spirits, wine, and malt beverages in package containers pursuant to licenses issued for those purposes;

(c) *Public Nuisance* shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by, or the health, safety, and welfare of the public; and

(2) Licensed Premises. No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine, or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.

(3) It shall be a defense to any prosecution under Article VIII, if a licensed vendor or property owner maintains a legible, painted, or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.

**ARTICLE IX
MALT BEVERAGE KEG REGISTRATION**

A. Definitions

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

B. Malt Beverage Keg Identification Tag

All retail licensees (herein after referred to as "licensee") operating within the City who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the city to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:

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

C. Keg Registration

- (1) The licensee shall obtain the name, address, and telephone number of the purchaser and shall require the purchaser to produce a valid driver's license number and, if that is not available, to produce at least one other valid form of identification.
- (2) The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.
- (3) The keg registration form shall be forwarded to the city within five (5) working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.
- (4) The city is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

(5) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the city concerning the provisions of this section.

D. Unlawful Sales

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

**ARTICLE X
ENFORCEMENT**

A. City police officers, or other authorized law enforcement officers, and the City ABC Administrator and his/her Investigator(s) are hereby authorized to enforce this Ordinance in full.

**ARTICLE XI
PENALTIES**

A. Penalties

(1) In addition to any criminal prosecution instituted in Ohio District Court or by issued warrant against an alleged violator, the City ABC Administrator may assess civil fines in lieu of suspension as authorized in KRS 243.480, including the per diem assessments for ongoing violations. Payment of all fines shall be remitted to the City ABC Administrator, who shall then transmit the fines to the City Clerk for deposit in the appropriate designated account.

(2) Any person, firm, or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall be guilty of a Misdemeanor, and subject to prosecution in the Ohio County Court System, as follows: for the first offense, be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), or imprisoned for not more than six months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

**ARTICLE XII
MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING**

A. Mandatory Responsible Beverage Service Training

(1) All persons employed in the selling and/or serving of alcoholic beverages shall participate in and complete the Department of Alcoholic Beverage Control's STAR program or other Responsible Beverage Serving ("RBS") program approved by the Department of Alcoholic Beverage Control.

(2) All persons required to complete training under Section 1 above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement.

(3) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed hereunder must at all times when alcoholic beverages are being served have at least one person currently certified in responsible beverage service training on duty as described herein.

(4) All persons completing the training required by this section shall be re-certified not less than once every three (3) years thereafter.

**ARTICLE XIII
SIGNS AND ADVERTISING**

A. All signage shall be in compliance with any and all other existing rules, regulations, and Ordinances of the City of Hartford, including but not limited to, the Planning and Zoning Ordinance as currently enacted, and/or as may be amended in the future.

B. Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

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

**ARTICLE XIV
PATIO AND OUTDOOR SALES**

A. Restaurant and hotel licensees under this Ordinance are allowed to make licensed sales of alcoholic beverages on patios and other outdoor locations so long as such activities are conducted upon the licensed premises and under the exclusive possession and control of the licensee.

B. Any food establishment which operates a restaurant and is licensed under this Ordinance and the provisions of the state ABC code, may, upon application to the local ABC

Administrator, ask permission to expand the operation of that restaurant onto a part, and only that part, of the public sidewalk which immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit.

C. Conditions for Sidewalk Café Permit

The issuance of a permit shall be subject to the following conditions and restrictions; provided, however, that the ABC Administrator may without adverse hearing procedures impose additional reasonable restrictions or withdraw approval upon the operation of any sidewalk café where necessary in the judgment of the said Administrator to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing:

(1) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.

(2) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. They shall be removed at the end of each business day at the hour specified in the permit. Umbrellas, tables, chairs, and other portable appurtenances shall be confined to the area shown on the approved Permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

(3) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.

(4) The licensee shall, in addition to all other requirements of law, take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passersby or persons who are not of age or who are obviously or apparently intoxicated.

(5) No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.

(6) At no time shall any music originating from any part of the premises create a nuisance.

(7) The permit for sidewalk café may not be assigned or transferred.

D. Other Requirements Applicable to Sidewalk Cafes

No sidewalk café permit shall be effective unless the licensee has filed with the City Administrator evidence of insurance, insuring the licensee against liability imposed by law

arising out of the ownership, maintenance or operation of such sidewalk café, in an amount to be established by the City Attorney and/or the City's Safety Coordinator. The city shall be named an additional insured in the policy required. Such insurance policy shall further provide expressly that it may not be canceled except upon ten (10) day's written notice (or more) filed with the ABC Administrator and the City Attorney.

ARTICLE XV REGULATORY LICENSE FEE

(Note: This Article XV shall only be enforceable upon passage of an amendment to KRS 243.075, or other such law, allowing cities the size of Hartford to collect a regulatory license fee. Until such amendment becomes effective, this section shall not be enforceable in Hartford city limits.)

- A. Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee upon the gross receipts of each and every person or entity licensed by the City ABC Administrator. The initial regulatory license fee shall be 6% of gross sales of alcoholic beverages, or as otherwise determined to meet the statutory requirements.
- B. Payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall be held in a separate account maintained for the purpose of fully reimbursing the City for any estimated costs of any 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; except that, a credit against a regulatory license fee in the City shall be allowed in an amount equal to any licenses or fees imposed by the City pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the fee returns approved for such use by the City Council. These returns and payments are due no later than by the end of the month immediately following each calendar month.
- C. Failure to pay such monthly remittance within ten days of the due date constitutes a violation and subjects licensee to suspension or revocation.
- D. Penalty for failure to file a return and pay monthly remittance by the due date is 5% of the fee due for each 30 days or fraction thereof. The total late filing penalty shall not exceed 25% of the fee due; provided, however, that, in no case shall the penalty be less than \$10.00.
- E. Interest at the rate of 8% per annum will apply to any late payments.
- F. Annually, effective July 1 of each year commencing in the effective year of this section, the City Council shall review and establish the regulatory license fee for the ensuing year so as to conform to the requirements of this ordinance and KRS 243.075. Prior to establishing the regulatory license fee, the Mayor shall cause the City's auditor to audit the regulatory license fee account to insure compliance with KRS 243.075, and in conjunction with the City Clerk, to recommend, based upon the experience of the prior year, a fee rate for the ensuing year. The Auditor shall report his findings to the City Council and in addition to the regulatory license fee, recommend any action he deems necessary to insure compliance with KRS 243.075.

ARTICLE XVI

COST OF ADDITIONAL POLICE PROTECTION FOR TEMPORARY EVENT

A. If it is deemed necessary in the discretion of the City ABC Administrator, the licensee may be required as a condition of receiving a special temporary license, to contract directly with the City (by and through the Hartford Police Department), at the expense of the licensee, to provide adequate security for the qualifying event.

ARTICLE XVII IMPLEMENTATION OF ORDINANCE PROVISIONS; SEVERABILITY

A. Implementation of Changes in Ordinance Provisions

The City Council may promulgate rules and regulations, and/or amendments thereto, as is in its discretion in order to ensure the proper implementation of this Ordinance. Such will be done as according to local, state, and federal law.

B. Severability

If any section of this Ordinance, including but not limited to, any section, subsection, paragraph, sentence, clause, phrase, or any other portion of this Ordinance, is declared illegal or unconstitutional, or otherwise invalid by a Court of competent jurisdiction, such declaration shall not affect the remaining portions hereof.

C. Effective Date of Ordinance Provisions

This Ordinance shall take effect immediately after its passage and publication as required by law.

FIRST READING: January 31, 2017

SECOND READING: February 23, 2017

PUBLICATION DATE: March 1, 2017

APPROVED: _____


Hayward Dean Minton, MAYOR

ATTEST: _____


Lisa Martin, CITY CLERK