

**CITY OF HORSE CAVE ABC ORDINANCE
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CITY OF HORSE CAVE
ORDINANCE NO. _____

AN AMENDED ORDINANCE RELATED TO THE SALE OF ALCOHOLIC BEVERAGES; AND SPECIFICALLY REQUIRING ANY ENTITY THAT MANUFACTURES OR TRAFFICS IN ALCOHOLIC BEVERAGES WITHIN THE CITY TO BE LICENSED BY THE CITY, AND TO PAY LICENSE FEES AND REGULATORY LICENSE FEES.

WHEREAS, the voters of the City of Horse Cave have, pursuant to KRS 242.185(6) ended prohibition within the City of Horse Cave, and

WHEREAS the said Alcoholic Beverages Control Law, as amended, provides for the issuance of certain licenses by the Alcoholic Beverages Control Board to persons or entities for the purpose of manufacturing or trafficking in alcoholic beverages in the City of Horse Cave, in addition to those licenses issued by the City pursuant to KRS 242.185(6), and

WHEREAS the law, as amended, allows for the City to require any state licensee to apply for and obtain a supplemental city license for those licenses set out in KRS 243.070, and to impose a license fee for the privilege of manufacturing or trafficking in alcoholic beverages, and

WHEREAS, KRS 243.075 further permits the City to impose a regulatory license fee upon the gross receipts for the sale of alcoholic beverages of any establishment licensed by the City Administrator for the purpose of reimbursing the City for the additional regulatory and administrative costs incurred as a result of the manufacturing of or trafficking in alcoholic beverages, and

WHEREAS, the following table of contents is contained herein solely for the purpose of convenience as a guide to this ordinance, and not to be considered a part of the substantive content of the ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City of Horse Cave, Kentucky, as follows:

SECTION ONE

ARTICLE I. IN GENERAL

Purpose:

The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS 242.185 (6), and other applicable law, for any restaurant or dining facility which seats a minimum of 100 persons and which derives a minimum of seventy (70%) percent of its gross receipts from the sale of food. To realize this intent, the City shall implement this Ordinance in such a manner as to assure that:

(a) Restaurants and dining facilities licensed under this Ordinance shall seat a minimum of one hundred (100) persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. Said seating must comply with all fire and safety capacity ratings and regulations.

(b) The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty.

(c) Restaurants and dining facilities licensed under this Ordinance shall derive a minimum of seventy (70%) percent of their gross receipts from the sale of food as certified by periodic documentation.

Definitions:

The definitions of the words used throughout this ordinance, unless the context requires otherwise, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

Scope:

This Ordinance shall apply to the sale of malt, wine and distilled spirits on any premises or establishment within the City of Horse Cave, as authorized pursuant to KRS 242.185(6) ("Limited Restaurant"). The sale of malt, wine and distilled spirits on any premises or establishment within the City of Horse Cave pursuant to a license issued by the Alcoholic Beverage Control Board under a provision other than KRS 242.185(6) shall be governed by the applicable state statutes; however, the provisions of this ordinance shall apply to all persons, licensees, premises and establishments within the City of Horse Cave to the fullest extent such application is delegated to the City, or otherwise authorized, by the provisions of Chapters 241 through 244 of the Kentucky Revised Statutes. Nothing in this Ordinance shall excuse or relieve the licensee, or the agent or any employee of any licensee thereof from the restrictions, requirements and penalties of any other Ordinance or Ordinances of the City or of any statutes of the Commonwealth of Kentucky relating to violations pertaining to alcoholic beverages.

The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements

thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

ARTICLE II. LICENSES

Scope:

Under this Ordinance, a primary license shall be issued by the City only to the owners and/or operators of those establishments which qualify under KRS 242.185(6). Whenever any person or entity has been licensed by the state Alcoholic Beverages Control Commission to manufacture or traffic in alcoholic beverages within the City of Horse Cave pursuant to some other provision of Chapters 241 through 244 of the Kentucky Revised Statutes, then, pursuant to KRS 242.185(4), upon issuance of the state license, such state licensee shall apply to the City of Horse Cave for a supplemental city license for the privilege of manufacturing and/or trafficking in alcoholic beverages within the City of Horse Cave. City license fees, whether primary or supplemental, shall be assessed in accordance with KRS 243.070 and Article IV of this ordinance. Regulatory license fees shall be assessed in accordance with KRS 243.075 and Article IV of this ordinance.

ARTICLE III. DUTIES OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

(a) The City Clerk shall serve as the City Alcoholic Beverage Control Administrator (hereinafter referred to as City ABC Administrator).

(b) The City ABC Administrator may from to time appoint such additional personnel as is necessary to assist him in the administration of this ordinance.

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

(d) 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, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City Council.

(e) 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 KRS 241.100.

(f) The City ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.

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

(h) The City ABC Administrator before entering upon his or her duties as such,

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.

(i) 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. Matters at issue shall be heard by the Board as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

ARTICLE IV. APPLICATION/LICENSE

(a) Before an application shall be considered, the applicant must publish a notice of its intent to apply for an alcohol beverage license in a newspaper meeting the requirements, of KRS Chapter 424.

(1) The advertisement shall state the name and addresses of the members of the partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, 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 as provided in KRS 424.170.

(b) All licenses granted under this Ordinance 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 ABC Board and the City of Horse Cave, as amended and supplemented from time to time.

(c) 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, the ABC Board and the City of Horse Cave, including as follows:

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Horse Cave resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this ordinance;
- (7) Extent of stock ownership;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee.

(d) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(e) All City licenses shall be in such form as may be prescribed by the City Council and shall contain:

- (1)The name and address of the licensee;
- (2)The number of the license;
- (3)The type of licenses
- (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.

(f) All licenses approved by the City ABC Administrator and issued by the City of Horse Cave shall begin on July 1 of any year and shall expire on June 30 of the following year.

(g) 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.

(h) Any licenses issued after December 31 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period. However, the cost of any license shall not be less than that for a period of six months.

(i) In the event a violation of this ordinance occurs that requires the revocation of

the license, the City shall not be required to refund any portion of the license fee.

Fees Pursuant to KRS 243.070:

(a) There is hereby imposed upon each holder of a license to manufacture and/or traffic in alcoholic beverages, whether pursuant to KRS 242.185(6) or any other provision of KRS 241 through 244, a license fee for the privilege of manufacturing and/or trafficking in alcoholic beverages within the City of Horse Cave. The annual license fee under KRS 242.185(6) ("Limited Restaurant") shall be \$800.00. In addition, the annual license fee for a Sunday sales permit shall be \$100.00, and if the permit is issued after December 30, the license fee shall be \$50.00. Otherwise, the annual license fee for any supplemental city license, as set out in Article II, shall be the maximum amount provided in KRS 243.070 for that particular license. These fees may be amended from time to time if not inconsistent with the applicable state statutes.

(b) The City ABC Administrator shall transmit fees upon collection to the city Treasurer to be deposited into the appropriate designated account. City Licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact the ABC Board Administrator has approved the applicant's state application.

Refund of License fees:

Should any licensee under this Ordinance be prohibited from conducting said business, for the full period covered by the license because of any changes that may hereafter be made in the laws of the State of Kentucky with reference to alcoholic

beverages or other cause outside licensee's control then the City shall refund to it the proportionate part of the license fee for the period during which it 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 agent or employee of the licensee.

Lost or Destroyed Licenses:

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original, license shall be issued by the City ABC Administrator after he/she shall be satisfied as to the facts; provided, however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) Dollars for issuing said duplicate.

Revocation or Suspension:

(a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or regulation of the ABC Board or of the 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 of any rules or regulations of the City heretofore in existence or authorized by

the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his sound discretion deems sufficient.

(b) 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.

(c) Any license may be revoked or suspended for the following causes:

- (1) Conviction of the licensee or his agent or employee for selling any illegal, beverages on the premises licensed.
- (2) Making any false, material statements in an application for a license.
- (3) If within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapter 241, 243 or 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 of the clerks, servants, agents or employees 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.
- (4) 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 Department of Revenue made in pursuance thereof.

(5) 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.

Notice to Licensee; Surrender of License; Hearing:

(a) Within three (3) days after any order of revocation 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 license to the City ABC Administrator. If the revoked 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 officers to take physical possession of the license and return it to the City ABC Administrator.

(b) When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his stock of alcoholic

beverages to an appropriate entity.

(c) Appeal from the decision of the City ABC Administrator shall be to the state ABC Board.

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

Transfer or Assignment:

No license issued under this Ordinance 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.

Refusal of License:

The City ABC Administrator may refuse to issue or renew a license for any of the following reasons:

(a) 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.

(b) If the applicant has done any act for which a revocation of license would be authorized; or

(c) If the applicant has made any false material statement in his application.

Review of License:

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) 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. In the event the 70% food requirement is 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 70% minimum food requirement has been met.

Regulatory License Fee:

(a) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee upon the gross receipts of each person or entity licensed by the City ABC Administrator, whether under KRS 242.185(6) or under KRS 242.185(4) and Article II of this Ordinance. The regulatory license fee shall be five (5%) percent of gross sales of alcoholic beverages.

(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 the any estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the

city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, 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 tax 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 quarter.

(c) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension revocation.

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

(e) Interest at the rate of eight percent (8%) per annum will apply to any late payments.

Change of Information:

(a) If a license issued by the City is in the name of a corporation, it is necessary that stock ownership changes in such corporation be reported to the City ABC Administrator. The City ABC Administrator can therefore, investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(b) As used herein, the word "change" is construed to include any change in directors or officers of the corporation, or change in ownership of stock whereby any

person secures ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.

(c) The following information will be required concerning any new director, officer, or person securing any interest in alcoholic beverage license:

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky.
If a Horse Cave resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this act;
- (7) Extent of stock ownership;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province,

This information shall be filed with the City ABC Administrator as an amendment of the application pursuant to which the license was granted.

Dormancy:

(a) 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 business interrupted by situations not under his control,

various exceptions to the dormancy rule have been included in this section.

(b) Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the City ABC Administrator.

(c) Except that the provisions of subsection (a) 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, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. 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 prior to the expiration of the ninety (90) days of inactivity, for any of the 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 thereunder 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 sound discretion.

(d) All renewal licenses must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the licenses 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 prior due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; 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.

Approval of Premises:

The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the city building inspector, and any and all other inspections required by the Kentucky Building Code.

Delinquent Taxes or Fees:

No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of the issuing the license; nor shall any license be granted or renewed to sell upon any

premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the city.

Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

Books, Records and Reports:

(a) 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 review.

(b) 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.

ARTICLE V. HOURS FOR SALE AND DELIVERY

(a) The licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink Monday through Saturday between the hours of 6:00 a.m. and midnight, and on Sunday from 2:00 p.m. until 12:00 midnight.

(b) All delivery of alcoholic beverages in the City shall be made during normal

business hours, Monday through Saturday. No delivery shall occur on Sunday.

(c) The licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. 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.

(d) The licensee shall not sell, or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular, special, or primary election day.

ARTICLE VI. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

(a) 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, or any device of chance is prohibited and shall not be kept on such premises.

(b) 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 Hart 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 designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(c) The licensee shall be responsible for maintaining security on his 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) It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind, 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 alcoholic beverages.

(e) 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 permit any drunk or intoxicated person to remain on the licensed premises.

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

(g) The licensee shall display at all times in a prominent place a sign at least 8" x 11" in 30 point or larger type 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.*

(h) 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.

(i) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), KRS 243.895.

(j) Any off premises signage advertising the sale of alcoholic beverages is prohibited.

(k) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(1) 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;
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;
3. Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under statute;
4. Within two (2) years prior to the date of his employment, has had any City license under this Ordinance revoked for cause.

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

ARTICLE VII. ENFORCEMENT

City police officers and the City ABC Administrator are authorized and directed to enforce this Ordinance for alleged violations.

Investigation and Inspection of Premises:

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 Horse Cave. 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.

Penalties:

The following penalties shall be in addition to any criminal prosecution instituted in Hart District Court against an alleged violator and fines hereunder shall be payable to the City ABC Administrator.

The City ABC Administrator may assess a fine of not more than five hundred dollars (\$500.00) per violation. This payment of said fine shall be transmitted to the City Treasurer to be deposited in the appropriate designated account.

Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned in the county jail 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, joint-stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

ARTICLE VIII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

(a) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City-approved responsible beverage service training program. For a responsible beverage service training program to be approved by the City, it must effectively train its participants in the identification of false age documents

and recognition of characteristics of intoxication. The City will not require enrollment in particular classes, but only that the training be obtained from a recognized program meeting the goals expressed in this ordinance.

(b) All persons required to complete training under paragraph (a) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in responsible beverage service training from a program approved by the City not less than once every three years thereafter.

(c) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information.

ARTICLE IX. SIGNS AND ADVERTISING

(a) All signage shall be in compliance with any and all other existing rules and regulations of the City of Horse Cave and the Hart County Planning & Zoning Commission.

(b) Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee

from placing in the windows of the licensed premises business cards not larger than two and one-half inches (2-1/2") in size, setting forth the price at which he offers alcoholic beverages for sale.

(c) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(d) It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium of advertising alcoholic beverages.

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

(f) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

ARTICLE X. IMPLEMENTATION OF ORDINANCE PROVISIONS

From time to time, the Horse Cave City Council may by resolution or order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this ordinance.

SECTION 2

SEVERABILITY

if any section, sentence, clause, or portion of this ordinance is for any reason

declared illegal, unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

SECTION 3

EFFECTIVE DATE

This Ordinance is effective upon final reading and publication.

GIVEN FIRST READING AND PASSED _____

GIVEN SECOND READING AND PASSED _____

APPROVED:

BY _____
MAYOR, City of Horse Cave

ATTEST:

BY _____
CITY CLERK

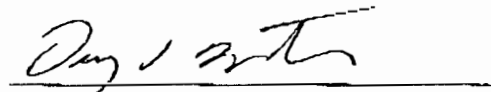
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E.O 71.102

EXECUTIVE ORDER

June 26, 2012

By Executive Order I hereby set the date for local option election within the city limits of Horse Cave (Horse Cave City Voters) for Tuesday September 11, 2012. This is accordance with KRS 242.020. The proposition on the ballot shall state, "Are you in favor of the sale of alcoholic beverages by the drink in the city of Horse Cave, Kentucky at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?"

A handwritten signature in dark ink, appearing to read "Terry Martin", is written over a horizontal line.

Terry Martin, Hart County Judge Executive

**CITY OF HORSE CAVE
ORDINANCE NO. 2012 - 11**

AN AMENDED ORDINANCE RELATED TO THE SALE OF ALCOHOLIC BEVERAGES; AND SPECIFICALLY REQUIRING ANY ENTITY THAT MANUFACTURES OR TRAFFICS IN ALCOHOLIC BEVERAGES WITHIN THE CITY TO BE LICENSED BY THE CITY, AND TO PAY LICENSE FEES AND REGULATORY LICENSE FEES.

WHEREAS, the voters of the City of Horse Cave have, pursuant to KRS 242.185(6) ended prohibition within the City of Horse Cave, and

WHEREAS the said Alcoholic Beverages Control Law, as amended, provides for the issuance of certain licenses by the Alcoholic Beverages Control Board to persons or entities for the purpose of manufacturing or trafficking in alcoholic beverages in the City of Horse Cave, in addition to those licenses issued by the City pursuant to KRS 242.185(6), and

WHEREAS the law, as amended, allows for the City to require any state licensee to apply for and obtain a supplemental city license for those licenses set out in KRS 243.070, and to impose a license fee for the privilege of manufacturing or trafficking in alcoholic beverages, and

WHEREAS, KRS 243.075 further permits the City to impose a regulatory license fee upon the gross receipts for the sale of alcoholic beverages of any establishment licensed by the City Administrator for the purpose of reimbursing the City for the additional regulatory and administrative costs incurred as a result of the manufacturing of or trafficking in alcoholic beverages, and

WHEREAS, the following table of contents is contained herein solely for the purpose of convenience as a guide to this ordinance, and not to be considered a part of the substantive content of the ordinance;

**CITY OF HORSE CAVE ABC ORDINANCE
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NOW, THEREFORE, BE IT ORDAINED by the City of Horse Cave, Kentucky, as follows:

SECTION ONE

ARTICLE I. IN GENERAL

Purpose:

The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS 242.185 (6), and other applicable law, for any restaurant or dining facility which seats a minimum of 100 persons and which derives a minimum of seventy (70%) percent of its gross receipts from the sale of food. To realize this intent, the City shall implement this Ordinance in such a manner as to assure that:

(a) Restaurants and dining facilities licensed under this Ordinance shall seat a minimum of one hundred (100) persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. Said seating must comply with all fire and safety capacity ratings and regulations.

(b) The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty.

(c) Restaurants and dining facilities licensed under this Ordinance shall derive a minimum of seventy (70%) percent of their gross receipts from the sale of food as certified by periodic documentation.

Definitions:

The definitions of the words used throughout this ordinance, unless the context requires otherwise, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

Scope:

This Ordinance shall apply to the sale of malt, wine and distilled spirits on any premises or establishment within the City of Horse Cave, as authorized pursuant to KRS 242.185(6) ("Limited Restaurant"). The sale of malt, wine and distilled spirits on any premises or establishment within the City of Horse Cave pursuant to a license issued by the Alcoholic Beverage Control Board under a provision other than KRS 242.185(6) shall be governed by the applicable state statutes; however, the provisions of this ordinance shall apply to all persons, licensees, premises and establishments within the City of Horse Cave to the fullest extent such application is delegated to the City, or otherwise authorized, by the provisions of Chapters 241 through 244 of the Kentucky Revised Statutes. Nothing in this Ordinance shall excuse or relieve the licensee, or the agent or any employee of any licensee thereof from the restrictions, requirements and penalties of any other Ordinance or Ordinances of the City or of any statutes of the Commonwealth of Kentucky relating to violations pertaining to alcoholic beverages.

The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements

thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

ARTICLE II. LICENSES

Scope:

Under this Ordinance, a primary license shall be issued by the City only to the owners and/or operators of those establishments which qualify under KRS 242.185(6). Whenever any person or entity has been licensed by the state Alcoholic Beverages Control Commission to manufacture or traffic in alcoholic beverages within the City of Horse Cave pursuant to some other provision of Chapters 241 through 244 of the Kentucky Revised Statutes, then, pursuant to KRS 242.185(4), upon issuance of the state license, such state licensee shall apply to the City of Horse Cave for a supplemental city license for the privilege of manufacturing and/or trafficking in alcoholic beverages within the City of Horse Cave. City license fees, whether primary or supplemental, shall be assessed in accordance with KRS 243.070 and Article IV of this ordinance. Regulatory license fees shall be assessed in accordance with KRS 243.075 and Article IV of this ordinance.

ARTICLE III. DUTIES OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

(a) The City Clerk shall serve as the City Alcoholic Beverage Control Administrator (hereinafter referred to as City ABC Administrator).

(b) The City ABC Administrator may from to time appoint such additional personnel as is necessary to assist him in the administration of this ordinance.

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

(d) 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, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City Council.

(e) 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 KRS 241.100.

(f) The City ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.

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

(h) The City ABC Administrator before entering upon his or her duties as such,

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.

(i) 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. Matters at issue shall be heard by the Board as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

ARTICLE IV. APPLICATION/LICENSE

(a) Before an application shall be considered, the applicant must publish a notice of its intent to apply for an alcohol beverage license in a newspaper meeting the requirements, of KRS Chapter 424.

(1) The advertisement shall state the name and addresses of the members of the partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, 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 as provided in KRS 424.170.

(b) All licenses granted under this Ordinance 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 ABC Board and the City of Horse Cave, as amended and supplemented from time to time.

(c) 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, the ABC Board and the City of Horse Cave, including as follows:

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Horse Cave resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this ordinance;
- (7) Extent of stock ownership;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee.

(d) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

the license, the City shall not be required to refund any portion of the license fee.

Fees Pursuant to KRS 243.070:

(a) There is hereby imposed upon each holder of a license to manufacture and/or traffic in alcoholic beverages, whether pursuant to KRS 242.185(6) or any other provision of KRS 241 through 244, a license fee for the privilege of manufacturing and/or trafficking in alcoholic beverages within the City of Horse Cave. The annual license fee under KRS 242.185(6) ("Limited Restaurant") shall be \$800.00. In addition, the annual license fee for a Sunday sales permit shall be \$100.00, and if the permit is issued after December 30, the license fee shall be \$50.00. Otherwise, the annual license fee for any supplemental city license, as set out in Article II, shall be the maximum amount provided in KRS 243.070 for that particular license. These fees may be amended from time to time if not inconsistent with the applicable state statutes.

(b) The City ABC Administrator shall transmit fees upon collection to the city Treasurer to be deposited into the appropriate designated account. City Licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact the ABC Board Administrator has approved the applicant's state application.

Refund of License fees:

Should any licensee under this Ordinance be prohibited from conducting said business, for the full period covered by the license because of any changes that may hereafter be made in the laws of the State of Kentucky with reference to alcoholic

(e) All City licenses shall be in such form as may be prescribed by the City Council and shall contain:

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of licenses
- (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.

(f) All licenses approved by the City ABC Administrator and issued by the City of Horse Cave shall begin on July 1 of any year and shall expire on June 30 of the following year.

(g) 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.

(h) Any licenses issued after December 31 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period. However, the cost of any license shall not be less than that for a period of six months.

(i) In the event a violation of this ordinance occurs that requires the revocation of

beverages or other cause outside licensee's control then the City shall refund to it the proportionate part of the license fee for the period during which it 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 agent or employee of the licensee.

Lost or Destroyed Licenses:

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original, license shall be issued by the City ABC Administrator after he/she shall be satisfied as to the facts; provided, however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) Dollars for issuing said duplicate.

Revocation or Suspension:

(a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or regulation of the ABC Board or of the 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 of any rules or regulations of the City heretofore in existence or authorized by

the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his sound discretion deems sufficient.

(b) 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.

(c) Any license may be revoked or suspended for the following causes:

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

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

(3) If within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapter 241, 243 or 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 of the clerks, servants, agents or employees 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.

(4) 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 Department of Revenue made in pursuance thereof.

(5) 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.

Notice to Licensee; Surrender of License; Hearing:

(a) Within three (3) days after any order of revocation 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 license to the City ABC Administrator. If the revoked 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 officers to take physical possession of the license and return it to the City ABC Administrator.

(b) When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his stock of alcoholic

beverages to an appropriate entity.

(c) Appeal from the decision of the City ABC Administrator shall be to the state ABC Board.

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

Transfer or Assignment:

No license issued under this Ordinance 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.

Refusal of License:

The City ABC Administrator may refuse to issue or renew a license for any of the following reasons:

(a) 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.

(b) If the applicant has done any act for which a revocation of license would be authorized; or

(c) If the applicant has made any false material statement in his application.

Review of License:

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) 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. In the event the 70% food requirement is 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 70% minimum food requirement has been met.

Regulatory License Fee:

(a) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee upon the gross receipts of each person or entity licensed by the City ABC Administrator, whether under KRS 242.185(6) or under KRS 242.185(4) and Article II of this Ordinance. The regulatory license fee shall be five (5%) percent of gross sales of alcoholic beverages.

(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 the any estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the

city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, 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 tax 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 quarter.

(c) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension revocation.

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

(e) Interest at the rate of eight percent (8%) per annum will apply to any late payments.

Change of Information:

(a) If a license issued by the City is in the name of a corporation, it is necessary that stock ownership changes in such corporation be reported to the City ABC Administrator. The City ABC Administrator can therefore, investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(b) As used herein, the word "change" is construed to include any change in directors or officers of the corporation, or change in ownership of stock whereby any

person secures ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.

(c) The following information will be required concerning any new director, officer, or person securing any interest in alcoholic beverage license:

(1) Name and address:

(2) Nature of interest;

(3) Whether or not a citizen of the United States;

(4) Date of birth;

(5) Date residence was established in Kentucky, if a resident of Kentucky.

If a Horse Cave resident, indicate when residence was established;

(6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this act:

(7) Extent of stock ownership;

(8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province,

This information shall be filed with the City ABC Administrator as an amendment of the application pursuant to which the license was granted.

Dormancy:

(a) 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 business interrupted by situations not under his control,

various exceptions to the dormancy rule have been included in this section.

(b) Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the City ABC Administrator.

(c) Except that the provisions of subsection (a) 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, acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. 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 prior to the expiration of the ninety (90) days of inactivity, for any of the 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 thereunder 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 sound discretion.

(d) All renewal licenses must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the licenses 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 prior due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; 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.

Approval of Premises:

The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the city building inspector, and any and all other inspections required by the Kentucky Building Code.

Delinquent Taxes or Fees:

No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of the issuing the license; nor shall any license be granted or renewed to sell upon any

premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the city.

Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

Books, Records and Reports:

(a) 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 review.

(b) 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.

ARTICLE V. HOURS FOR SALE AND DELIVERY

(a) The licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages by the drink Monday through Saturday between the hours of 6:00 a.m. and midnight, and on Sunday from 2:00 p.m. until 12:00 midnight.

(b) All delivery of alcoholic beverages in the City shall be made during normal

business hours, Monday through Saturday. No delivery shall occur on Sunday.

(c) The licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. 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.

(d) The licensee shall not sell, or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular, special, or primary election day.

ARTICLE VI. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

(a) 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, or any device of chance is prohibited and shall not be kept on such premises.

(b) 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 Hart 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 designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(c) The licensee shall be responsible for maintaining security on his 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) It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind, 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 alcoholic beverages.

(e) 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 permit any drunk or intoxicated person to remain on the licensed premises.

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

(g) The licensee shall display at all times in a prominent place a sign at least 8" x 11" in 30 point or larger type 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.*

(h) 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.

(i) The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), KRS 243.895.

(j) Any off premises signage advertising the sale of alcoholic beverages is prohibited.

(k) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(1) 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;
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;
3. Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under statute;
4. Within two (2) years prior to the date of his employment, has had any City license under this Ordinance revoked for cause.

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

ARTICLE VII. ENFORCEMENT

City police officers and the City ABC Administrator are authorized and directed to enforce this Ordinance for alleged violations.

Investigation and Inspection of Premises:

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 Horse Cave. 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.

Penalties:

The following penalties shall be in addition to any criminal prosecution instituted in Hart District Court against an alleged violator and fines hereunder shall be payable to the City ABC Administrator.

The City ABC Administrator may assess a fine of not more than five hundred dollars (\$500.00) per violation. This payment of said fine shall be transmitted to the City Treasurer to be deposited in the appropriate designated account.

Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned in the county jail 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, joint-stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

ARTICLE VIII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

(a) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City-approved responsible beverage service training program. For a responsible beverage service training program to be approved by the City, it must effectively train its participants in the identification of false age documents

and recognition of characteristics of intoxication. The City will not require enrollment in particular classes, but only that the training be obtained from a recognized program meeting the goals expressed in this ordinance.

(b) All persons required to complete training under paragraph (a) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in responsible beverage service training from a program approved by the City not less than once every three years thereafter.

(c) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information.

ARTICLE IX. SIGNS AND ADVERTISING

(a) All signage shall be in compliance with any and all other existing rules and regulations of the City of Horse Cave and the Hart County Planning & Zoning Commission.

(b) Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee

from placing in the windows of the licensed premises business cards not larger than two and one-half inches (2-1/2") in size, setting forth the price at which he offers alcoholic beverages for sale.

(c) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(d) It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium of advertising alcoholic beverages.

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

(f) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

ARTICLE X. IMPLEMENTATION OF ORDINANCE PROVISIONS

From time to time, the Horse Cave City Council may by resolution or order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this ordinance.

SECTION 2

SEVERABILITY

if any section, sentence, clause, or portion of this ordinance is for any reason

declared illegal, unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

SECTION 3

EFFECTIVE DATE

This Ordinance is effective upon final reading and publication.

GIVEN FIRST READING AND PASSED _____

GIVEN SECOND READING AND PASSED _____

APPROVED:

BY _____
MAYOR, City of Horse Cave

ATTEST:

BY _____
CITY CLERK

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