

**CITY OF KUTTAWA
ORDINANCE NO. 14-10-13-08**

**AN ORDINANCE AMENDING ORDINANCE NO. 14-06-09-04
SECTION 6 PERTAINING TO THE TIME AND DAYS ON
WHICH ALCOHOLIC BEVERAGES MAY BE SOLD**

WHEREAS, the City of Kuttawa has heretofore adopted Ordinance No. 14-06-09-04, codified in Chapter 114 of the City of Kuttawa Code of Ordinances and pertaining to the sale of alcoholic beverages within the City, and

WHEREAS, Section 6 of said Ordinance No. 14-06-09-04 entitled "Hours of Operation; Sunday Sales" heretofore established the days and hours during which alcoholic beverages may be sold, and

WHEREAS, in order to promote economic development and tourism, the City Council of the City of Kuttawa now desires to amend the days and hours when alcoholic beverages may be sold.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED that Ordinance No. 14-06-09-04, Section 6, of the City of Kuttawa's Code of Ordinances be, and the same hereby is, amended as follows:

SECTION 6 – HOURS OF OPERATION; SUNDAY SALES

(a) Package sales – Package sales are permitted from 6:30 a.m. to 1:30 a.m. the following day on Monday through Friday and from 6:30 a.m. until 12:00 midnight on Saturday. There shall be no package sales on Sunday.

(b) On-premises consumption – On-premises consumption shall be allowed from 6:30 a.m. until 1:30 a.m. the following day on Monday through Saturday including Sunday until 1:30 a.m. and from 12:00 noon Sunday until ~~10:00 p.m.~~ 1:30 a.m. on Monday.

This ordinance shall take effect after its passage and upon publication.

1st Reading: 10/13/14

2nd Reading: 11/10/14

Consideration: 11/10/14

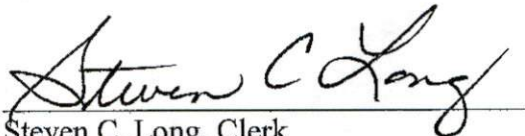
Passage: 11/10/14

Publication: 11/19/14



Lee A. McCollum, Mayor
City of Kuttawa, Kentucky

ATTEST:



Steven C. Long, Clerk
City of Kuttawa, Kentucky

**CITY OF KUTTAWA
ORDINANCE NO. 13-11-12-05**

**AN ORDINANCE AMENDING THE EXISTING ORDINANCE
PERTAINING TO ALCOHOLIC BEVERAGES**

WHEREAS, Senate Bill 13 was passed by the Kentucky General Assembly during the 2013 legislative session, and

WHEREAS, Senate Bill 13 significantly changed the statutes relating to alcoholic beverage control within the Commonwealth of Kentucky, and

WHEREAS, the Kuttawa City Council desires to amend its existing ordinance relating to alcoholic beverages to comply with KRS Chapters 241, 242, 243 and 244, as amended by Senate Bill 13,

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED that Ordinance No. 01-3-5-4 codified as Chapter 114 of the City of Kuttawa's Code of Ordinances be, and the same hereby is, amended as follows:

2. **GENERAL PROVISIONS**

The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapters 241, 242, 243 and 244, as amended by Senate Bill 13, pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control law of the City, except as otherwise lawfully provided herein.

5. **LICENSE APPLICATION**

5.02 Applicants for a license under this Ordinance shall pay a license fee of \$600.00 (~~which is less than the total of the maximum charge for a malt beverage license and the maximum charge for a restaurant wine license under KRS 243.070~~).

7. LICENSE RENEWAL

The license issued pursuant to this Ordinance shall authorize the sale of alcoholic beverages until the next following ~~30th day of June~~ 1st day of January. The license may be renewed annually thereafter upon a showing that the criteria therefor have been met, the filing and approval of a renewal application, and the payment of a renewal fee of \$600.00.

BE IT FURTHER ORDAINED AND ESTABLISHED that the original Ordinance No. 01-3-5-4 remain in full force and effect, except as amended herein, together with Ordinance No. 13-06-11-03, which also remains in full force and effect.

This ordinance shall take effect after its passage and upon publication.

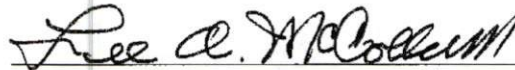
1st Reading: 11/12/13

2nd Reading: 12/09/13

Consideration: 12/09/13

Passage: 12/09/13

Publication: 12/11/13



Lee A. McCollum, Mayor
City of Kuttawa, Kentucky

ATTEST:



Steven C. Long, Clerk
City of Kuttawa, Kentucky

**CITY OF KUTTAWA
ORDINANCE NO. 13-06-11-03**

**AN ORDINANCE AMENDING ORDINANCE NO. 01-3-5-4
SECTION 114.09 OF THE CITY OF KUTTAWA'S
CODE OF ORDINANCES PERTAINING TO THE TIME AND
DAYS ON WHICH ALCOHOLIC BEVERAGES MAY BE SOLD**

WHEREAS, the City of Kuttawa has heretofore adopted Ordinance No. 01-3-5-4 codified in Chapter 114 of the City of Kuttawa Code of Ordinances and pertaining to the sale of alcoholic beverages within the City, and

WHEREAS, paragraph 9 of said Ordinance No. 01-3-5-4 codified in Section 114.09, entitled "Additional Restrictions on Sale by Licensee", heretofore established the days and hours during which alcoholic beverages may be sold, and

WHEREAS, in order to promote economic development and tourism, the City Council of the City of Kuttawa now desires to amend the days and hours when alcoholic beverages may be sold.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED that Ordinance No. 01-3-5-4 codified as Section 114.09 of the City of Kuttawa's Code of Ordinances be, and the same hereby is, amended as follows:

At no time shall any licensee sell any alcoholic beverage when the licensee does not have food available for sale, and in no event may any alcoholic beverage be sold between the hours of 1:30 a.m. and 6:30 a.m., Monday through Saturday, ~~nor between 12:00 a.m. (midnight) on Saturday and 6:30 a.m. on Monday~~ nor between the hours of 1:30 a.m. and 1:00 p.m. on Sundays.

ALCOHOL
BEVERAGE CONTROL

2013 JUL 3 AM 9 47

Ordinance Number 01-3-5-4

AN ORDINANCE ESTABLISHING LICENSING REQUIREMENTS AND REGULATORY LICENSE FEES REGARDING THE SALE OF ALCOHOLIC BEVERAGES BY THE DRINK AT CERTAIN RESTAURANTS AND DINING FACILITIES PURSUANT TO KRS 242.185(6).

BE IT ORDAINED AND ENACTED by the City Council of the City of Kuttawa, County of Lyon, State of Kentucky, as follows:

1. PURPOSE.

It is the purpose of this ordinance to promote economic development and tourism within the City by making provision for the sale of alcoholic beverages by the drink at certain restaurants and dining facilities in a manner consistent with the local option election heretofore conducted pursuant to Chapter 242 of the Kentucky Revised Statutes.

2. GENERAL PROVISIONS.

The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapters 241, 242, 243 and 244, pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control law of the City, except as otherwise lawfully provided herein.

3. CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

3.01 The City Alcoholic Beverage Control Administrator (the "City Administrator") shall be appointed by the Mayor with the consent of a majority of the members of the City Council, and may be removed by the Mayor with or without cause. No conflict of interest shall be deemed to arise if the individual appointed as City Administrator is also employed by the City in some other capacity.

3.02 The City Administrator and his assistants and investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the boundaries of the City. They, and any City of Kuttawa law enforcement officer, may inspect any premises where alcoholic or malt beverages are sold, stored, or otherwise trafficked without first obtaining a search warrant.

3.03 The City Administrator and his assistants and investigators are authorized to examine and inspect, at any reasonable time, all books and records required to be maintained by licensees under KRS 244.150. In addition to the reports otherwise required by this Ordinance, the licensee shall submit to the City Administrator a copy of all reports which the licensee is required or elects to submit to or file with the State Alcoholic Beverage Control Board.

3.04 The City Administrator shall have the same powers and duties with respect to

suspension and revocation for cause of City licenses as the State Alcoholic Beverage Control Board has with respect to State licenses under KRS 241.060. The City Administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this Chapter.

4. LICENSE.

4.01 No alcoholic beverages shall be sold in the City except as permitted by the Kentucky Revised Statutes and except by a duly authorized licensee in compliance with the terms and conditions of this Ordinance.

4.02 Restaurants and dining facilities shall be eligible for the license for which provision is made herein if they comply with all of the following requirements:

a. Such restaurants and dining facilities shall seat a minimum of 100 (one hundred) persons.

b. Restaurants and dining facilities licensed under this Ordinance shall have articulated and convincing reasons to anticipate that they will derive a minimum of 70% (seventy percent) of their gross receipts from the sale of food as certified by periodic documentation.

5. LICENSE APPLICATION.

5.01 Representatives of restaurants and dining facilities seeking the license for which provision is made herein shall submit a completed application to the City Administrator. The form provided may be the same form utilized by the State Alcoholic Beverage Control Commission (ABC).

5.02 Applicants for a license under this Ordinance shall pay a license fee of \$600.00 (which is less than the total of the maximum charge for a malt beverage license and the maximum charge for a restaurant wine license under KRS 243.070).

5.03 A verified statement of the applicant shall accompany the Application, containing the affirmation of the applicant that the applicant anticipates that the gross receipts at the licensed premises through the sale of food shall be equal to or greater than 70% of its total gross receipts.

5.04 The Applicant for a City license shall tender with its application a consent document, which shall state:

"The undersigned Applicant hereby grants its irrevocable consent to the City Alcoholic Beverage Control Administrator, and his duly appointed agents, to come upon and inspect and search the licensed premises at any reasonable time."

6. PERIODIC INFORMATION TO BE PROVIDED BY LICENSEE.

Applicants to whom a license is issued authorizing the sale of alcoholic beverages pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that 70% (seventy percent) of the applicant's gross income is earned from the sale of food. Such information shall be provided on or before March 31 and on or before September 30 of each year, and shall consist of a certificate from a Certified Public Accountant familiar with the applicant's pertinent business records, which shall state:

"I have conducted a limited scope audit according to accepted accounting principles of the pertinent records of _____, licensee under Ordinance _____, and certify that the licensee earned at least 70% (seventy percent) of its gross receipts from the sale of food during the half year ending _____ (March 1 or September 1)."

The certificate shall contain a brief description of the methodology used in the determination of the certified percentage.

7. LICENSE RENEWAL.

The license issued pursuant to this Ordinance shall authorize the sale of alcoholic beverages until the next following 30th day of June. The license may be renewed annually thereafter upon a showing that the criteria therefor have been met, the filing and approval of a renewal application, and the payment of a renewal fee of \$600.00.

8. REGULATORY LICENSE FEE IMPOSED.

8.01 For the purpose of full reimbursement to the City of the cost of any police, regulatory, legal, or administrative expenses related to the sale of alcoholic beverages in a manner consistent with this Ordinance, a Regulatory License Fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued pursuant to this Ordinance. The amount of this fee shall be adjusted from time to time by Ordinance so that the same shall be reasonably estimated to insure full reimbursement to the City of the police, regulatory, administrative, or legal expenses herein referred to. The Regulatory License Fee shall be in addition to any other taxes, fees, or licenses permitted by law.

8.02 Until adjusted by Ordinance as hereinbefore required, the Regulatory License Fee shall be 5% of all sales of alcoholic beverages beginning January 1, 2001.

8.03 Payment of the Regulatory License Fee shall accompany tax returns approved for use by the City Administrator, submitted to the City Clerk by the 20th day of each month for the preceding month's sales. There shall be a monthly credit of \$50.00 (fifty dollars), representing the pro rata

portion of the initial license cost for which provision is made in this Ordinance.

8.04 Failure to pay the monthly remittance within 10 (ten) days after the due date shall constitute a violation of this Ordinance, and in addition, shall constitute grounds for an immediate thirty day suspension of the license for which provision is made herein.

9. ADDITIONAL RESTRICTIONS ON SALE BY LICENSEE.

At no time shall any licensee sell any alcoholic beverage when the licensee does not have food available for sale, and in no event may any alcoholic beverage be sold between the hours of 1:30 a.m. and 6:30 a.m., Monday through Saturday, nor between 12:00 a.m. (Midnight) on Saturday and 6:30 a.m. on Monday.

10. VIOLATION.

The sale of alcoholic beverages within the City not in conformity with this Ordinance shall constitute a violation, punishable by fine of up to \$500.00 for each offense, to be prosecuted as all other municipal ordinance violations are prosecuted. Each day of each violation shall constitute a separate offense.

11. CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE AND FOR SUSPENSION AND REVOCATION OF LICENSE.

Causes for the refusal to issue or renew a license or for the suspension or revocation of a license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, and in addition thereto shall include the following:

- a. The failure to obtain or retain a State license;
- b. The failure to comply with the provisions of this Ordinance regarding gross receipts from the sale of food or the provisions of this Ordinance regarding periodic certification from a Certified Public Accountant;
- c. The failure to pay the "Regulatory License Fee" when due; and
- d. The failure to pay any fine for which provision is made herein.

12. REVOCATION OR SUSPENSION OF THE LICENSE.

Upon the occurrence of one or more of the causes for revocation and suspension, the City Alcoholic Beverage Control Administrator may, upon his own initiative or upon complaint, give notice requiring the licensee to show cause why a revocation or suspension should not occur and give notice of the time and place of a hearing on possible revocation or suspension. Upon the Licensee's failure

to show cause, such a suspension or revocation may be ordered by the City Administrator. The licensee shall be afforded the right to:

- a. Reasonable notice of the charge;
- b. Representation;
- c. Presentation of such evidence and witnesses as in its discretion are appropriate to the issues; and
- d. A finding reasonably supported by the evidence.

The City Administrator may designate a city employee or other person to act as a hearing officer to conduct the hearing for which provision is hereinbefore made. In the event of such a designation, the Hearing Officer's determination shall be in the form of a recommendation upon which the City Administrator shall determine appropriate action.

13. APPEAL.


Appeals from determination of the City Administrator with respect to Orders of that Officer, including denial of applications or Orders suspending or revoking the same, shall be addressed to the State Alcoholic Beverage Control Board in a manner consistent with KRS 241.200.

14. EFFECTIVE DATE.

This Ordinance will take effect upon passage and publication.

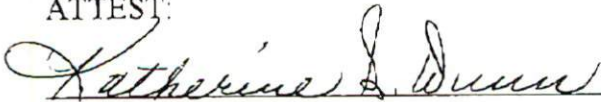
15. PRIOR ORDINANCE.

This Ordinance supercedes Ordinance Number 01-2-24-2, which was not fully advertised and accordingly never became effective.



Lee McCollum
Mayor, City of Kuttawa

ATTEST:



Katherine Dunn
City Clerk, City of Kuttawa

ADOPTED:

March 12, 2001

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