

ORDINANCE NO. 2014-410.05

AN ORDINANCE AMENDING MARION COUNTY FISCAL COURT ORDINANCES 1990-410.01, 1994-410.02, 2006-410.03, AND 2009-410.04 RELATING TO THE SALE, CONSUMPTION, AND REGULATION OF ALCOHOLIC BEVERAGES, THE ISSUANCES OF LICENSES THEREFORE, REGULATING THE TIMES OF SALES AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, Marion County, Kentucky (the "County") has in the past established regulations concerning the sale and consumption of alcoholic beverages, the issuance of licenses therefore and providing penalties for violations thereof in accordance with the Kentucky Revised Statutes; and

WHEREAS, the Fiscal Court has determined that there exists within the County substantial unemployment and that the economy of the County is not expanding at a satisfactory rate, thereby creating conditions of economic hardship within the County; and

WHEREAS, the Court has further determined that by licensing certain hotels, motels, inns and/or restaurants in order to allow the sale of distilled spirits by the drink and for consumption on the premises may aid the County's economic growth, increase its employment and alleviate existing conditions of economic hardship; and

WHEREAS, the County wishes to amend the aforesaid Ordinances to bring them into accordance with recently enacted changes to the state alcoholic beverage licensing scheme, and wishes to do so by repealing said Ordinances in their entireties and substituting therefore this Ordinance;

NOW, THEREFORE, be it ordained by the Fiscal Court of Marion County, Kentucky:

SECTION 1

Unless the context otherwise requires, the terms used and licenses referenced in this Ordinance shall be construed according to the definitions and usage set forth in the Kentucky Revised Statutes, Chapters 241, 242 and 243, as amended from time to time by the Kentucky General Assembly.

SECTION II

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

SECTION III

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

SECTION IV

The licenses authorized under this Ordinance shall be divided into the following categories and the applicant shall, at the time of his application, pay to the County Judge Executive the appropriate fee for each license applied for:

A. Distilled Spirit Licenses as set forth in KRS 243.030

- 1. Distiller's License, per annum\$500.00

2. Rectifier's License, per annum\$3,000.00
3. Wholesaler's Distilled Spirit and Wine License, per annum.....\$3,000.00
4. Quota Retail Package License, per annum\$550.00
5. Special Temporary License, per event.....\$105.00
6. Nonquota Type 1 Retail Drink License
(includes distilled spirits, wine, and malt beverages) per annum\$2,000.00
7. Nonquota Type 2 Retail Drink License
(includes distilled spirits, wine, and malt beverages), per annum\$498.00
8. Nonquota Type 3 Retail Drink License
(includes distilled spirits, wine, and malt beverages) per annum\$300.00
9. Distilled Spirits and Wine Special Temporary Auction License
per event.....\$200.00
10. Special Sunday Retail Drink License, per annum\$300.00
11. Extended Hours Supplemental License, per annum\$2,000.00
12. Caterer's License, per annum\$200.00
13. Bottling House or Bottling House Storage License, per annum.....\$1,000.00

B. Malt Beverage Licenses as follows:

1. Brewer's License, per annum\$500.00
2. Microbrewery License, per annum\$500.00
3. Malt Beverage Distributor's License, per annum.....\$400.00
4. Nonquota Retail Malt Beverage Package License, per annum.....\$105.00
5. Nonquota Type 4 Retail Malt Beverage Drink License, per annum.....\$78.00
6. Malt Beverage Brew-On-Premises License, per annum.....\$100.00
7. Limited Restaurant License
(includes distilled spirits, wine, and malt beverages), per annum\$1,200.00

8. Limited golf course license
(includes distilled spirits, wine, and malt beverages), per annum\$500.00

SECTION V

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

- A. A person who has been convicted of a felony;
- B. A person who is not of good character and reputation in the community;
- C. A person whose license under this Section has been revoked for any cause;
- D. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
- E. A partnership, unless all the members of the partnership shall be qualified to obtain such a license;
- F. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation would not be eligible to receive a license hereunder for any such reason;
- G. A person whose place of business is to be conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee;
- H. A person who has, within five years of the application date, been convicted of a violation of any federal or state law concerning the manufacture, possession, transportation or sale of alcoholic beverages, or who shall have forfeited his bond to appear in Court to answer charges for any such violation;
- I. Any person, firm or corporation not eligible for a state alcoholic beverage license

regulating the sale of the same alcoholic beverages for which such person proposes to acquire a County license.

SECTION VI

No premises for which there has been granted any license for the sale of distilled spirits, wine or malt beverages shall remain open for any purpose between 1:00 a.m. and 6:00 a.m., Monday through Saturday, or between 1:00 a.m. and 12:00 p.m. noon on Sunday and no distilled spirits, wine or malt beverages may be sold, given away or delivered thereupon during those hours. Provided, that if a licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits, wine and malt beverages, and all fixtures and apparatus connected with the alcohol business, and said department is kept locked during the times mentioned above, the licensee shall be deemed to have complied with this Section.

SECTION VII

Each license issued hereunder shall terminate on the 30th day of April following the issuance thereof. Should any such license be issued by the County and any required City, County, State or Federal approval, certification or licensing not be obtained by the applicant or should same be voluntarily or involuntarily withdrawn, removed, relinquished or suspended, then the license issued hereunder by the County shall immediately become null and void and shall be surrendered to the County Judge Executive. Any license fee paid shall thereupon be automatically forfeited and shall not be prorated. Following a license suspension or revocation a new license may be applied for upon the making of a new application and the payment of a new license fee.

SECTION VIII

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

SECTION IX

Any person violating any provision of this Ordinance shall be fined not less than \$100.00 nor more than \$500.00 for each offense and each day in which a violation of this Ordinance shall occur shall be deemed to constitute a separate offense. Any person or licensee violating any provision of this Ordinance twice in a 24-month period shall have, in addition to the fines involved, all alcoholic beverage licenses issued by the County of Marion revoked and all license fees paid shall thereupon be automatically forfeited and shall not be prorated.

SECTION X

All Ordinances or parts of Ordinances in conflict herewith are expressly repealed, but only to the extent of such conflict.

SECTION XI

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION XII

This Ordinance shall become effective upon its second reading, passage and publication.

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2014.

MARION COUNTY FISCAL COURT

By John G. Mattingly
JOHN G. MATTINGLY
Marion County Judge Executive

ATTEST:

By Ann C. Sandusky
ANN C. SANDUSKY,
Marion County Court Clerk

First reading given March 20, 2014.
First publication in *The Lebanon Enterprise* on April 23, 2014.
Second reading given May 1, 2014.
Final publication in *The Lebanon Enterprise* on May 16, 2014.

APPROVED AS TO FORM AND LEGALITY:

By Joseph H. Mattingly III
JOSEPH H. MATTINGLY III
Marion County Attorney
P. O. Box 678
Lebanon, Kentucky 40033
Telephone: (270) 692-1718

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FILED
AT 1:18 PM
AUG 26 2009
KAREN SPALDING, CLERK

**AN ORDINANCE AMENDING MARION COUNTY FISCAL COURT
ORDINANCE 1990-410.01 SO AS TO PERMIT SUNDAY SALE OF DISTILLED
SPIRITS, WINE AND MALT BEVERAGES.**

MARION COUNTY FISCAL COURT ORDINANCE NO. 2009-410.04

WHEREAS, the Marion County Fiscal Court presently prohibits sale of alcoholic beverages, including distilled spirits, wine and malt beverages, at any time during the twenty-four (24) hours of Sunday in the areas outside the incorporated city limits of Lebanon, Kentucky, pursuant to Marion County Fiscal Court Ordinance No. 1990-410.01; and

WHEREAS, the Marion County Fiscal Court has determined that restrictions upon the Sunday sale of alcoholic beverages within Marion County but outside of the incorporated city limits of the City of Lebanon, Kentucky, works an economic disadvantage to those businesses otherwise licensed to sell alcoholic beverages and the Marion County Fiscal Court has further determined that expanding the times when alcoholic beverages can be sold upon licensed premises to include Sundays would be beneficial to the citizens of Marion County,

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF MARION COUNTY, KENTUCKY:

That Section VI of Marion County Fiscal Court Ordinance 1990-410.01 be, and it hereby is amended by deletion in its entirety and substitution therefor the following:

SECTION VI

No premises for which there has been granted any license for the sale of distilled spirits, wine or malt beverages shall remain open for any purpose between 1:00 a.m. and 6:00 a.m., Monday through Saturday, or between 1:00 a.m. and 12:00 p.m. noon on Sunday, or any time during the hours the polls are open for any regular, primary, school or special election and no distilled spirits, wine or malt beverages may be sold, given away or delivered thereupon during those hours. Provided, that if a licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits, wine and malt beverages, and all fixtures and apparatus connected with the alcohol business, and said department is kept locked during the times mentioned above, the licensee shall be deemed to have complied with this Section.

Effective Date: This Ordinance shall become effective upon its second reading, passage and publication.

PASSED AND APPROVED this 20th day of August, 2009.

MARION COUNTY FISCAL COURT

By John G. Mattingly
JOHN G. MATTINGLY,
Marion County Judge/Executive

ATTEST:

By Karen Spalding By: JBC
KAREN SPALDING, DC
Marion County Court Clerk

First reading: August 6, 2009

First publication in *The Lebanon Enterprise*: August 12, 2009

Second reading: August 20, 2009

Final publication in *The Lebanon Enterprise*: August 26, 2009

APPROVED AS TO FORM AND LEGALITY:

By Joseph H. Mattingly III
JOSEPH H. MATTINGLY III
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P. O. Box 678 - 104 West Main Street
Lebanon, Kentucky 40033
Telephone: (270) 692-1718

AN ORDINANCE AMENDING MARION COUNTY FISCAL COURT ORDINANCE NO.: 90-410.01 ENTITLED "AN ORDINANCE RELATING TO THE SALE, CONSUMPTION AND REGULATION OF ALCOHOLIC BEVERAGES, THE ISSUANCE OF LICENSES THEREFOR, REGULATING THE TIMES OF SALES AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF", AS AMENDED BY MARION COUNTY FISCAL COURT ORDINANCE 94-410.02, SO AS TO AUTHORIZE THE ISSUANCE OF "SOUVENIR RETAIL LIQUOR LICENSES."

MARION COUNTY FISCAL COURT ORDINANCE NO.: 2006-410-03

WHEREAS, THE MARION COUNTY FISCAL COURT is desirous of amending Ordinances 90-410.01 and 94-410.02, relating the sale, consumption and regulation of alcoholic beverages, the issuance of licenses therefore, regulating the times of sale and providing penalties for violation thereof, so as to authorize the issuance of "souvenir retail liquor licenses",

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT, MARION COUNTY, KENTUCKY, AS FOLLOWS:


Section IV of Ordinance No.: 90-410.01, as previously amended by Ordinance No.: 94-410.02, be, and it hereby is amended to add the following authorized license category:

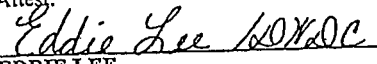
Class G - Permits any licensed Kentucky distiller that has a gift shop on its premises to sell souvenir packages at retail to distillery visitors of legal drinking age, in quantities not to exceed an aggregate of three (3) liters per visitor per day, with the exception of a purchase by a partnership, limited liability partnership, corporation, limited liability company, or other business entity holding an event on the premises of the distillery, in which case the limitation shall be one (1) liter per visitor attending the event. These sales shall be permitted only through the gift shop on the distiller's premises and only if the distillery is located in wet territory. These sales shall be permitted only during the hours between 6:00 a.m. and midnight, Monday through Saturday, and between noon and midnight on Sunday and shall not be sold for consumption on the premises of the distillery.

Fee: \$150.00

This Ordinance shall be effective upon second reading and advertisement.

PASSED AND APPROVED THIS 17th DAY OF AUGUST, 2006.


DAVID R. HOURIGAN
Marion County Judge Executive

Attest:

EDDIE LEE
Marion County Fiscal Court Clerk

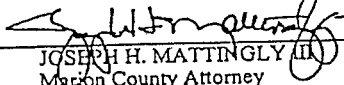
First Reading: August 3, 2006

First Publication: August 9, 2006, in *The Lebanon Enterprise*

Second Reading: August 17, 2006

Final Publication: August 30, 2006, in *The Lebanon Enterprise*

APPROVED AS TO FORM AND LEGALITY:

By 
JOSEPH H. MATTINGLY III
Marion County Attorney
P. O. Box 678
Lebanon, Kentucky 40033
Telephone: (270) 692-1718

ORDINANCE NO. 90-_____

AN ORDINANCE RELATING TO THE SALE, CONSUMPTION
REGULATION OF ALCOHOLIC BEVERAGES, THE
ISSUANCE OF LICENSES THEREFOR, REGULATING THE
TIMES OF SALES AND PROVIDING PENALTIES FOR
VIOLATIONS THEREOF.

WHEREAS, the legislature of the Commonwealth of
Kentucky has enacted a statutory scheme regulating the sale and
consumption of alcoholic beverages, and

WHEREAS, the statutory scheme enacted by the
legislature grants to certain counties the right to also regulate
and license the sale of alcoholic beverages, and

WHEREAS, for many years the County of Marion has
licensed and regulated the sale of alcoholic beverages other than
distilled spirits by the drink for consumption on the premises,
and

WHEREAS, pursuant to an Act of the 1990 Legislature,
the County is now, in certain limited situations, authorized to
license and regulate the sale of distilled spirits by the drink
for consumption on the premises, and

WHEREAS, the Fiscal Court has determined that there
exists within the County substantial unemployment and that the
economy of the County is not expanding at a satisfactory rate,
thereby creating conditions of economic hardship within the
County, and

WHEREAS, the Court has further determined that by

licensing certain hotels, motels, inns and/or restaurants in order to allow the sale of distilled spirits by the drink and for consumption on the premises may aid the County's economic growth, increase its employment and alleviate existing conditions of economic hardship,

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF MARION, KENTUCKY:

SECTION 1

Unless the context otherwise requires, the following terms, as used in this Ordinance, shall be construed according to the definitions given below.

A. Alcohol means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

B. Alcohol beverage means every liquor or solid, whether patented or not, containing alcohol in an amount in excess of that permitted under Chapter 242 of the Kentucky Revised Statutes and capable of being consumed by human beings. It includes every beverage for which the Commonwealth of Kentucky requires a license under Chapter 243 of the Kentucky Revised Statutes.

C. Malt beverage means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under

Chapter 242 of the Kentucky Revised Statutes.

D. Wine means the product of the normal alcoholic fermentation of the juices of fruits, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharin and seasonal conditions. It includes champagne and sparkling and fortified wine of an alcoholic content not to exceed 24% by volume.

E. County Administrator or administrator means the County judge executive.

F. Convicted means a finding of guilt resulting from a plea of guilty the decision of a Court, or the findings of a jury, irrespective of a pronouncement of Judgment or the suspension of the Judgment.

G. Distilled spirits or spirits means any product capable of being consumed by human beings which contains alcohol in excess of the amount permitted by Chapter 242 of the Kentucky Revised Statutes, obtained by distilling, mixed with water or other substances in solution, except wine.

H. Sale means any transfer, exchange or barter for consideration, and includes all sales made by any person, whether principal, proprietor or agent, servant or employee, of any alcoholic beverage. "Sale" further means to solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

I. Retail sale means any sale where delivery is made

to any person not holding a license.

J. Wholesale sale means a sale to any licensed person for the purpose of resale.

K. Person means and shall include persons, associations, partnerships, corporations and every other being known to law.

L. Premises or licensed premises means a building or structure and does not include any appurtenant structures, parking lots or areas outside the confines of such building or structure.

M. Restaurant, as used in reference to Class "D" licenses referred to herein means eating establishments open to general public having dining facilities for not less than one hundred (100) persons, and as used in reference to Class "D" licenses referred to herein means businesses with dining facilities which receive at least 50% of their gross annual income from their dining facilities by the sale of food.

SECTION II

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

SECTION III

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

SECTION IV

The licenses authorized under this Ordinance shall be divided into the following categories and the applicant shall, at the time of his application, pay to the County Administrator the appropriate fee for each license applied for:

Wholesale malt beverage license--
permits wholesale sale of malt beverages to
licensed dealers \$ 26.00

Class "A" license -- permits only
retail sale of distilled spirits and wine in
sealed packages, but not for consumption on the
licensed premises. \$201.00

Class "B" license -- permits only
retail sale of malt beverages in sealed packages,
but not for consumption on the licensed premises \$201.00

Class "C" license -- permits only
retail sale of wine for consumption on the
licensed premises where sold, and not for resale
in any form. \$ 75.00

Class "D" license -- permits only retail
sale of distilled spirits by the drink for consumption
on the licensed premises where sold, and not for
resale in any form. Available only to hotels, motels
or inns containing not less than fifty (50) sleeping

one hundred (100) persons or bona fide restaurants
open to the general public having dining facilities
for not less than one hundred (100) persons. \$ 301.00

SECTION V

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

- A. A person who has been convicted of a felony;
- B. A person who is not of good character and reputation in the community;
- C. A person whose license under this Section has been revoked for any cause;
- D. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
- E. A partnership, unless all the members of the partnership shall be qualified to obtain such a license;
- F. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation would not be eligible to receive a license hereunder for any such reason;
- G. A person whose place of business is to be conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee;
- H. A person who has, within five years of the application date, been convicted of a violation of any federal or state law concerning the manufacture, possession, transportation

or sale of alcoholic beverages, or who shall have forfeited his bond to appear in Court to answer charges for any such violation;

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

SECTION VI

No premises for which there has been granted any license for the sale of distilled spirits or wine shall remain open for any purpose between midnight and 8:00 a.m., or any time during the 24 hours of a Sunday, or during the hours the polls are open for any regular, primary, school or special election. Provided, that if a licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with the alcohol business, and said department is kept locked during the times mentioned above, the licensee shall be deemed to have complied with this Section. No malt beverages shall be sold, given away or delivered by anyone holding any license to sell malt beverages between midnight and 8:00 a.m. or at any time during the twenty-four (24) hours of a Sunday or during the hours the polls are open on an election day.

SECTION VII

Each license issued to ... shall terminate on the

30th day of June following the issuance thereof. Should any such license be issued by the County and any required City, County, State or Federal approval, certification or licensing not be obtained by the applicant or should same be voluntarily or involuntarily withdrawn, removed, relinquished or suspended, then the license issued hereunder by the County shall immediately become null and void and shall be surrendered to the County Administrator. Any license fee paid shall thereupon be automatically forfeited and shall not be prorated. Following a license suspension or revocation a new license may be applied for upon the making of a new application and the payment of a new license fee.

SECTION VIII

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

SECTION IX

Any person violating any provision of this Ordinance shall be fined not less than \$100.00 nor more than \$500.00 for each offense and each day in which a violation of this Ordinance shall occur shall be deemed to constitute a separate offense. Any person or licensee violating any provision of this Ordinance

twice in a 24-month period shall have, in addition to the fines involved, all alcoholic beverage licenses issued by the County of Marion revoked and all license fees paid shall thereupon be automatically forfeited and shall not be prorated.

SECTION X

All Ordinances or parts of Ordinances in conflict herewith are expressly repealed, but only to the extent of such conflict.

SECTION XI

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION XII

This Ordinance shall become effective upon its second reading, passage and publication.

COUNTY OF MARION, KENTUCKY

BY: Merriell Mattingly
MERRIELL MATTINGLY, JUDGE

ATTEST:

BY: Philip Jarboe
PHILIP JARBOE, COUNTY CLERK

First reading given Sept. 4, 1990

Second reading given Sept. 18, 1990

Published in _____ on _____, 1990.

Philip Jarboe.
PHILIP JARBOE, COUNTY CLERK