

CITY OF MARTIN

ORDINANCE NO. 15-0001

"HOURS OF PERMITTED ALCOHOL SALES"

An Ordinance of the City of Martin concerning the hours of permitted liquor sales, setting forth Policy, Definitions, Rules and Regulations regarding said sales, and setting forth the methods and procedures of enforcement of the Ordinance and Penalties for Violation of same and repealing prior ordinances.

WHEREAS, the City of Martin, has determined the need to regulate the hours of permitted liquor/alcohol sales;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF MARTIN that the following Ordinance shall be in effect from the date of publication hereof and until repeal and/or amendment thereof by the Board of Directors of the City.

ARTICLE I - SHORT TITLE

This chapter shall be known and may be cited as the "Martin Alcoholic Beverage Control Chapter.

ARTICLE V - TYPES OF LICENSES: FEES

Effective July 1, 2015, the following kinds of distilled spirits and malt beverage licenses may be issued by the city and the annual fees for each license shall be as indicated below.

Type of License:	Fee
A) Wholesaler (Distilled Spirits and Wine)	\$3,000.00
B) Quota Retail Package Distilled Spirits and Wine	\$600.00
C) Distributor (Malt Beverage)	\$400.00
D) Retail Malt Beverage Drink License	
(1) New Applicants	\$250.00
(2) Renewals	\$150.00
E) Retail Malt Beverage Package License	\$200.00
F) Retail Restaurant and hotel combined	
Distilled spirits, malt beverage and wine drink	\$1,000.00
G) Special temporary wine and/or beer (KRS 243.260 and KRS 243.290)	\$50.00
H) Retail Drink License (Convention Center, Horse Track, Automobile Race License)	\$2,000.00
I) Supplement Bar License (per bar up to 5)	\$1,000.00

- J) Special Sunday Retail Package Distilled Spirits
And Wine; Malt Beverage Package License and
Retail Drink License \$250.00
Statutory reference:
City licenses; fees, see KRS 243.070

ARTICLE VII - REGULATORY LICENSE FEE IMPOSED

- A) There is imposed a regulatory license fee upon the gross receipts from sale of alcoholic beverages of each establishment within the city licensed to sell alcoholic beverages, by package or by drink, in the sum of three percent (5%) of the gross receipts of such establishments. The regulatory license fee is assessed at three percent (5%), based upon the city's estimate and approved budget as to the cost of reimbursing the city for additional policing and 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 lawfully imposed upon such establishment.
Statutory reference:
Authorization for regulatory license fee, see KRS 243.075

ARTICLE VIII - HOURS WHEN SALE PERMITTED

- A) (1) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensee's premises, any alcoholic beverage between the following hours:

<u>Day</u>	<u>Prohibited Hours of Sale</u>
Monday	12:00 a.m. and 8:00 a.m.
Tuesday	1:00 a.m. and 8:00 a.m.
Wednesday	1:00 a.m. and 8:00 a.m.
Thursday	1:00 a.m. and 8:00 a.m.
Friday	1:00 a.m. and 8:00 a.m.
Saturday	2:00 a.m. and 8:00 a.m.
Sunday	2:00 a.m. and 1:00 p.m.

- (2) In the event that January 1 falls on Monday through Thursday, it shall not be unlawful to sell or offer for sale, at retail or to give away, in or upon any licensee's premises, any alcoholic beverage between 1:00 a.m. and 2:00 a.m.

- B) It shall be unlawful to keep open for business or to admit public to, or permit the public to remain within, or to permit the consumption of alcoholic beverages in or upon any premises in which alcoholic beverages are sold at retail during the hours within which the sale of such alcohol beverages is prohibited; provided, that in case of bona fide restaurants, such establishments may be kept open for business during such hours, but no alcoholic beverages may be sold to, or consumed by the public during such hours.

ARTICLE X - INSPECTIONS

Police officers of the Police Department shall concurrently have the jurisdiction coextensive with the State Alcoholic Beverage Control Administrator and the City Clerk to inspect any licensed premise without first obtaining a search warrant.

ARTICLE XIII - PENALTY

A) Unless otherwise provided, any person, firm, or corporation who violates any of the provisions of this chapter or any state statute or regulations pertaining to the sale of alcoholic beverages shall, in addition to any state penalty, be subject to the revocation or suspension of his license.

Samuel Howell
SAMUEL HOWELL, MAYOR OF CITY OF MARTIN

Subscribed, sworn and acknowledged on the 31 day of March, 2015.

ATTEST:
Ethel Clouse
ETHEL CLOUSE
CITY CLERK

1st Reading 3/24/15 2nd Reading 3/27/15

Advertised on: 4/3/15

I, James D. Adams, II, do hereby certify pursuant to KRS 83A.060(9) the above to be an accurate summary of Ordinance 15-001 of the City of Martin, Floyd County Kentucky, this 31st day of March 2015.

James D. Adams, II
Hon. James D. Adams, II
Martin City Attorney
158 North Arnold Avenue
Prestonsburg, KY 41653

AN AMENDMENT TO ORDINANCE # 08-82, REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF MARTIN, KENTUCKY.

BE IT ORDAINED BY THE CITY OF MARTIN, KENTUCKY AS FOLLOWS:

ORDINANCE # 08-82; SECTION # 2.36 SHALL BE AMENDED TO READ AS FOLLOWS:

~~Every person, firm, or corporation who engages in the business of wholesale liquor dealer, as defined in KRS-243.170, within the corporate boundaries of the City shall pay in advance to the City Clerk an annual fee of Four Hundred Dollars (\$400.00), or the maximum allowed by law.~~

In business to wholesale alcoholic beverages, distilled spirits, wine, malt beverages or liquor as defined in KRS 241.010, within the corporate boundaries of the City shall pay in advance to the City Clerk an annual license fee of Four Hundred Dollars (\$400.00) as provided in KRS 243.070.

The City Clerk is directed to publish this Amendment in its entirety.

PASSED AND ADOPTED, this the 12th day of August 1992, by the Martin City Council.


RAYMOND GRIFFITH, MAYOR
CITY OF MARTIN, KENTUCKY

ATTEST:


CITY CLERK

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ALCOHOL
BEVERAGE CONTROL

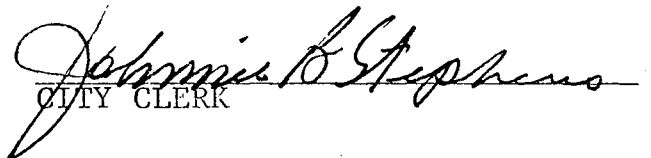
CITY OF MARTIN
ORDINANCE NO. 6 - 1982

Be it ordained by the City of Martin that any business desiring to sell alcoholic beverages within the corporate limits of the city shall first secure licenses for such sales from the appropriate city official. The licenses are as follows:

1. Distilled Spirits License.
2. Malt Beverage License.
3. Any other license which the City of Martin deems necessary.

The fee for these city licenses shall be the maximum allowed by law.

MAYOR


CITY CLERK

Motion Alan Reed Whicker
Second-James Robinson

ROLL CALL VOTE

YEAS
Joe Everage
Denzil Halbert
James Robinson
Bill Eden
Alan Reed Whicker
Harold D. Case

NEAS
Neas

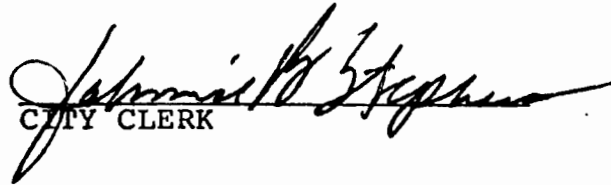
Adopted July 14, 1982

COMMONWEALTH OF KENTUCKY

CITY OF MARTIN

ORDINANCE NO. 5-1982

Be it ordained by the City of Martin that the duties
Alcohol Beverage Control Administrator shall be vested in
e Martin City Clerk.

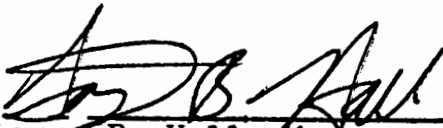

CITY CLERK

Motion-Alan Reed Whicker
Second-James Robinson

ROLL CALL VOTE

YEAS	NEAS
Joe Everage	None
Denzil Halbert	
James Robinson	
Bill Eden	
Alan Reed Whicker	
Harold D. Case	

Adonted July 14, 1982


Larry B. Hall, Mayor
City of Martin

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ALCOHOL
BEVERAGE CONTROL

Wayne Hall

AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF MARTIN, KENTUCKY.

BE IT ORDAINED BY THE BOARD OF CITY COUNCIL OF THE CITY OF MARTIN, KENTUCKY AS FOLLOWS:

DEFINITIONS

This chapter shall be known as and may be cited as the "Alcoholic Beverage Control Ordinance" of the City of Martin, Kentucky.

Section 1.1 The term "alcoholic beverage" means alcoholic brandy, whiskey, rum, gin, beer, ale, porter wine, and all other spiritous, vinous, malt or fermented liquors, liquids and compound, whether medicated, proprietary, patented or not, and by whatever named called, containing more that one per cent (1%) of alcohol by volume, which are fit for use for beverage purposes.

a. "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute from malt, and having an alcoholic content greater than one-half of one per cent by volume and not more than 4.8 percent of alcohol by weight, or 6.02 percent of alcohol by volume.

b. "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne, sparkling and fortified wine of an alcoholic content not exceeding twenty-four (24%) percent by volume. It includes preparations or mixtures vended in retail containers if such preparations or mixtures contain not exceeding fifteen percent (15%) of alcohol by volume.

c. "Distilled spirits" means any alcoholic beverage, except malt beverage and wine.

Section 1.2 The term "person" shall be construed to include within its meaning "person", "firm", "partnership", "association", "company", "corporation", or "fraternal order".

Section 1.3 The term "distributor" shall mean any person, who distributes malt beverages, or distilled spirits, for the purpose of being sold at retail.

Section 1.4 The term "retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

Section 1.5 The term "restaurant" means any retail establishment which derives more that fifty percent (50%) of its gross revenues from the sale of food for consumption on the premises and has a minimum seating capacity of fifty (50) people at tables. The term "tavern" means any retail establishment for which the primary purpose of existence is the retail sale of alcoholic beverages for consumption on the premises, derives less than fifty percent of its gross revenues from the sale of food; or any retail establishment for which the primary purpose of existence is entertainment, and which may, in addition to entertainment, offer food and/or alcoholic beverages for consumption on the premises.

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BEVERAGE CONTROL

Section 1.6 The term "carry out" means any retail establishment which has as its purpose, among other purposes, the sale of alcoholic beverages for consumption off the premises and for the purposes of this Ordinance, shall include retail package liquor stores. The term "carry out" shall include, but not be limited to, grocery stores, markets, express-type markets by whatever name known, bait shops, fruit and vegetable markets, drug stores, and similar premises.

Section 1.7 The city alcoholic beverage administrator shall be known as "local administrator".

LICENSES

The following classes of licenses are hereby created and subject to be issued subject to all terms, conditions and qualifications as set out herein.

2.1 Retail Package Liquor License, which shall authorize the retail sale of legal distilled spirits and wine for consumption other than on the premises.

2.2 Retail Malt Beverage License, which shall authorize the retail sale of malt beverages.

2.3 Retail Restaurant Wine License, which shall authorize the retail sale of wine for consumption on the premises.

2.3.1 Malt Beverage Distributor's License which shall authorize wholesale traffic of malt beverages to Retail Malt Beverage licensees.

2.3.2 Wholesale Liquor License which shall authorize the wholesale traffic of distilled spirits and wine to Retail Package licensees, and the wholesale traffic of wine to Restaurant Wine licensees.

The licenses to be issued under the classifications set out herein shall be in conjunction with the State licenses issued by the State Alcoholic Beverage Commission.

2.4 No license shall be issued to any person or persons not a full citizen of the United States and who have not resided continuously in the Commonwealth of Kentucky and in Floyd County, Kentucky, for at least one full year prior to the filing of an application for a license; excepting, however, that a corporation shall be deemed to meet the requirements of this section if it has been doing business in Floyd County, Kentucky, continuously for one full year prior to the filing of an application, or if all stockholders of the corporation meet the requirements of this section. Further, the requirements of this section relative to residency in Floyd County, Kentucky, shall not apply to Wholesale Liquor or Malt Beverage Distributor licenses.

2.5 No license shall be issued to any person who has been convicted of an alcohol related felony or any other felony within two years prior to filing an application with the City.

2.6 Reserved

2.7 The provisions of this section shall not apply to a corporation, but such provisions shall apply to all officers, directors, and any person who is to manage or conduct the business premises.

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

2.9 No application shall be approved to any retail package liquor store, carry-out, or restaurant premises within two-hundred (200) feet of any school, hospital, church, or any residential district unless the applicant can show proof that a certified letter was sent to an officer of the school, hospital, church or to the residents, stating the applicant's intentions.

State
LAW

2.10 Reserved.

2.11 Reserved.

2.12 Reserved.

2.13 No license shall be granted to a corporation if more than ten (10%) percent of the stock therein is held by any person not eligible for a license under this ordinance, except as otherwise provided in Section 2.4.

2.14 No license issued by the City of Martin, Kentucky, to sell alcoholic beverages at retail shall be transferrable or assignable to any other person or any other premises, or to any other part of the building containing the licensed premises, unless the transferee or assignee has submitted application to the local administrator and the same has been approved, except, however, that if a corporation or partnership that holds a license to sell alcoholic beverages at retail is dissolved, or if a receiver, assignee for the benefit of creditors, or a committee for the property of a licensee is appointed during the time for which a license is granted, or if a licensee dies during said time and a personal representative is appointed for his estate, that corporation, partnership, receiver, assignee, personal representative, or committee for a licensee adjudged to be incompetent to continue the business of selling alcoholic beverages at retail upon the licensed premises for the balance of the term for which the license was effective, with the same right, and subject to the same restrictions and liabilities as if he had been the original licensee, after making written application to the local administrator and State Alcoholic Beverage Control Board, setting forth the circumstances by which he has succeeded to the rights of the original licensee, may continue the business with the approval of the administrator.

Provided further, however, that in the event of destruction by an act of God or unavoidable accident of the premises for which a licensee has been issued, the local administrator may change the license to authorize continuance of business at other premises upon written application by the licensee for such a transfer, setting out the circumstances by virtue of which he desires such a transfer to be made.

A license issued pursuant to this ordinance shall be posted while in force in a conspicuous place in the room or place where alcoholic beverages are kept for sale. If ever a license shall be lost or destroyed without fault on the part of the owner or his agent or employee, a duplicate in lieu thereof under the original application shall be issued by the City Clerk on satisfying himself as to the facts, upon the payment of a fee of Five (\$5.00) Dollars.

2.15 All licenses granted hereunder shall be subject to the conditions of this and other ordinances of the City of Martin, Kentucky.

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

2.17 No license to sell alcoholic beverages shall be granted to any person, firm, or corporation who or which is delinquent in payment of any taxes due to the city at the time of issuing said license; nor shall any license be granted to sell upon the premises or property, owned and occupied by the licensee, upon which there are any delinquent taxes due to the city. In such cases, if taxes due the city for any taxing period prior to the date of application for a license, are unpaid and delinquent upon the property or premises upon which a license to sell is sought, the local administrator, may, in his discretion, approve a license to sell after receiving from the city finance director, satisfactory to him for taking care of the indebtedness represented by the unpaid and delinquent taxes above referred to. This section shall apply only to taxes which are due and payable by the licensee.

2.18 All license, except special temporary licenses, issued under this chapter shall expire on the thirtieth day of June of each year and the fees therefore shall be due and payable on July first of each year.

2.19 The license tax for every license issued under this chapter shall be payable by the person making application for such license and to whom is issued such license, and no other person, firm, or corporation shall pay for any license issued under this chapter. In addition, to all other penalties provided in this chapter, a violation of this section shall authorize and require the revocation of the license, the tax for which was paid by another and also the revocation of the license, if any, of the person, firm, or corporation so paying for the license of another.

2.20 All license fees from licenses issued under this chapter shall be collected by the City Clerk.

2.21 No license shall be issued to any person, firm, or corporation at any store or other place of business where the majority of its business consists of selling school books, school supplies, food, lunches or drinks to minors, or to a business that is a penny arcade or similar establishment that receives the majority of its business from minors, regardless of the distance of such stores or other place of business from a church, school or hospital.

2.22 Reserved

2.23 Nothing in this chapter contained shall excuse or relieve the owner, proprietor, employee, or person in charge of any licensed premises in the city, where alcoholic beverages are sold, 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.

2.24 The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (Chapters 241, 243 and 244, Kentucky Revised Statutes) and all amendments and supplements thereto, are adopted so far as applicable as a portion of this chapter, except as otherwise lawfully provided herein.

2.24.1 Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the local administrator. Such books and records shall be available at all reasonable times for inspection by the local administrator or any of his authorized representatives.

2.25 Dancing shall not be permitted on any premises within the city for which an alcoholic beverage license is held.

2.26 Penalty for Dancing. Any person, firm or corporation who shall permit dancing on the premises for which an alcoholic beverage license is held shall be fined One-Hundred (\$100.00) Dollars for each day that dancing is permitted.

2.27 Reserved. *Charitable & Fraternal organizations shall be exempt.*

2.28 Reserved

2.29 Pro-ration abatement of fees. No license fee for a license issued under this section shall be pro-rated or abated except upon the loss or destruction of the licensed premises.

2.30 Collection of fees. All license fees from licenses issued under this Chapter shall be collected by the city clerk.

2.31 For the purpose of regulating the location of retail package liquor and retail drink licenses in the City and various zones or districts as fixed and established by the Martin Planning and Zoning Ordinance and the zoning map adopted thereby, as the same may from time to time be amended are hereby adopted as a part of this chapter. *OK*

2.32 No license shall be issued to any person, firm or corporation for selling at retail or wholesale any alcoholic beverages at any premises or location where such business is prohibited under the present zoning ordinance or any other ordinances of the city or any ordinance supplementary or amendatory to same and any license issued in violation of this subsection shall be void.

2.33 Any person, firm or corporation who desires to sell wine at a restaurant facility and who meets the requirements established in KRS 243.032 shall first obtain a restaurant wine license. Each restaurant wine license holder shall pay, in advance, to the city clerk an annual license fee of Six-Hundred (\$600.00) Dollars or maximum allowed by law.

2.34 Every person, firm or corporation who or which sells at retail any malt beverage within the corporate boundaries of the city for consumption either on or off the licensed premises shall pay to the city clerk an annual fee of Four-Hundred (\$400.00) Dollars or maximum allowed by law.

2.35 Every person, firm, or corporation who engages in the business of wholesale malt beverage distributor, as defined in KRS 243.280, within the corporate boundaries of the city shall pay in advance to the city clerk, an annual fee of Four-Hundred (\$400.00) Dollars or the maximum allowed by law.

2.36 Every person, firm, or corporation who engages in the business of wholesale liquor dealer, as defined in KRS 243.170, within the corporate boundaries of the city shall pay in advance to the city clerk an annual fee of Three-Thousand (\$3,000.00) Dollars, or the maximum allowed by law.

2.37 For the purposes of Sections 2.35 and 2.36, a person shall be deemed to be engaged in the business described therein if that person, firm or corporation solicits business, or makes delivery within the corporate boundaries of the City of Martin, Kentucky.

2.38 All city licenses shall be in such form as may be prescribed by the Board of City Council and shall contain:

- a. the name and address of the licensee;
- b. the number of the licensee;
- c. the type of license;
- d. a description by street and number, or otherwise, of the licensed premises;
- e. the name and address of the owner of the building in which the licensed premises are located;
- f. the expiration date of the license;
- g. 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;
- h. each kind of license shall be printed so as to be readily distinguished from the other kinds.

APPLICATIONS

3.1 The local administrator shall not approve any application for an original license to sell alcoholic beverages until after the applicant shall have caused to be published for at least one (1) time within fourteen (14) days before the application is filed, a concise advertisement stating the name and address of the applicant as well as the name and address of the business and the type of license applied for in a newspaper of general circulation in the city, which is published locally.

3.2 Contents: Application for the retail sale of alcoholic beverages shall be made in writing, properly subscribed and sworn to before a notary public or other officer authorized to administer an oath, wherein shall be stated the applicant's name, age, date of birth, social security number, and address, and the exact location by street number or otherwise, of the premises where the alcoholic beverages are to be sold, and the name of the owner of said premises, and shall be accompanied by a certified copy of the deed or lease, whichever applies, by which the applicant holds the premises. If the applicant be a corporation, the applicant shall provide the name, age, date of birth, social security number, and address of each member of the board of directors, each officer of the corporation. The corporation shall provide the same information pertaining to the person who is to manage or conduct the sale of alcoholic beverages, and how long the same has been a resident of the Commonwealth of Kentucky.

3.3 Reserved.

3.4 Each application shall indicate whether the business is to be conducted as a restaurant, carry-out, or a retail package liquor store or wholesale distributor.

3.5 Each application shall be accompanied by a bond to the City of Martin, Kentucky, in the penal sum of Two-Thousand (\$2,000.00) Dollars, executed by the applicant with one (1) or more sureties acceptable to the city, or a cash bond of Two-Thousand (\$2,000.00) Dollars, conditioned upon the applicant's faithful compliance with the observance of all laws in the conduct of the proposed business, and that all fines and penalties which shall accrue during the term of said license will be paid, with all costs taxed or allowed in any action or proceeding brought or instituted for violation of the state act or ordinances, or amendatory or supplemental act or ordinance. All cash bonds posted to the City shall bear interest at the legal rate until returned. Cash bonds shall be returned upon the execution of a bond bearing good sureties.

3.6 Should the ^{City Clerk} ~~local administrator~~ of the city at any time have reasonable grounds to believe that any 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 office of the bureau of records and identification of the police department of the city for the purpose of having his or her fingerprints taken.

3.7 The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

3.8 All licenses granted under this ordinance shall be approved by the local 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 as amended and supplemented from time to time, and upon such additional forms as may be required by this ordinance or by regulation of the local administrator. Each application shall be accompanied by a certified check, or a postal or express money order for the license fee.

HEARINGS

4.1 Should the applicant or licensee request the local administrator to hold a hearing, the general practice procedures found in the Kentucky Rules of Civil Procedure shall apply.

4.2 Definitions. All words are used as defined in the Alcoholic Beverage Control Law of Kentucky (KRS Chapters 241, 242, 243 and 244) unless otherwise specified.

4.3 Appearances. Any applicant or licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the Board.

4.4 Briefs. Briefs may be filed at the option of the applicant or licensee.

4.5 Rules of Evidence. The rules of evidence governing civil proceedings in courts in the Commonwealth of Kentucky shall govern hearings before the local administrator; provided, however, that the hearing officer may relax such rules in any case where, in his judgment, the ends of justice will be better served by so doing.

4.6 Subpoenas. The local administrator shall have subpoena power for such hearings and shall at the request of applicant, made with names and addresses supplied, issue such subpoenas.

4.7 Transcript. Upon request and at the cost of the applicant or licensee the hearing may be transcribed.

4.8 Decisions. All decisions shall be written and based upon the evidence developed at the hearing.

ADVERTISING RESTRICTIONS

5.1 Every licensee shall be required to comply with existing statutes pertaining to advertising, and all existing ordinances regulating signs, as amended from time to time.

MISCELLANEOUS REGULATIONS

6.1 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.

6.2 No person, firm, or corporation licensed to sell alcoholic beverages at retail shall permit any person or persons to open any bottle of distilled spirits, wine, or malt beverages nor its contents consumed on the licensed premises unless the licensee has been designated a tavern or restaurant licensee by the local administrator.

6.3 No person, firm, or corporation who holds a license to sell any alcoholic beverage shall permit any person to drink on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises. No licensee shall sell alcoholic beverages to any drunk or intoxicated person.

6.4 If any distilled spirits or malt beverages are found on the outside of the locked or closed-off department of any premises at which a license is held to sell distilled spirits at retail at any hours during which the licensee is prohibited by the Kentucky Alcoholic Beverage Control Act or by this chapter from selling said distilled spirits or malt beverages, a prima facie presumption shall arise that such distilled spirits or malt beverages were kept on the outside of the locked or closed-off department for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license, and in addition to other penalties provided for violation of this section the local administrator shall be and is hereby authorized to confiscate such distilled spirits or malt beverages. This section shall also apply to wine.

6.5 It shall be unlawful for any person under the age of twenty-one (21) years to enter any premises licensed for the sale of alcoholic beverage for the purpose of purchasing or having delivered to him or her, any alcoholic beverages.

6.6 It shall be unlawful for any person under the age of twenty-one (21) years to purchase or attempt to purchase, or have another purchase for him or her, any alcoholic beverage at any premises licensed for the sale of alcoholic beverages. It shall be unlawful likewise for any person to aid or assist any person under the age of twenty-one (21) years in purchasing or having delivered to him or her, any such alcoholic beverage on or off such premises.

6.7 It shall be unlawful for any person under the age of twenty-one (21) years of age to misrepresent his or her age for the purpose of inducing any retail licensee, or any employee of any retail license, to sell or serve any alcoholic beverages to him or her.

6.8 It shall be the duty of every retail licensee to display at all times in a prominent place a printed card not smaller than 12" x 16", which shall read substantially as follows:

WARNING TO MINORS

Any person under the age of 21 years, under City Ordinance are subject to fine of \$100.00 if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.
2. 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.

6.9 It shall be unlawful for any person under the age of twenty-one (21) years to possess in the City of Martin, Kentucky, any alcoholic beverages outside of the confines of his, or her, abode or residence. Any alcoholic beverages found in possession of such person shall be liable to seizure as contraband.

Any person who shall violate the provisions of this section shall, in addition to having the possessed alcoholic beverage seized as contraband, be fined \$100.00 for each violation. *Distict court*

6.10 No retail licensee shall sell alcoholic beverages between the hours of 12 o'clock (midnight) and the hour of 6 o'clock a.m. prevailing time. *change this*

6.11 No retailer as defined in this Ordinance shall permit the consumption of alcoholic beverages upon the premises.

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

6.13 Each licensed premises shall at all times be conducted in a orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premise.

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

6.15 No distributor or retail dealer shall buy any alcoholic beverage in the city except from a person holding a license in conformity with this ordinance.

6.16 A violation of this Ordinance by a duly authorized agent or employee of a licensee or a licensee shall constitute a violation of the license and whenever the holder of any license under this ordinance shall violate any portion of the ordinance or any regulation adopted pursuant thereto, the local administrator shall suspend or revoke such license.

6.17 It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages. In addition to other penalties provided for the violation of this section, the chief of police or the local administrator shall have the authority to confiscate any and all such radio receiving apparatus.

6.18 A violation of any of the provisions of this chapter or any amendment thereof, by a duly authorized agent or employee of a licensee shall constitute a violation by the licensee. It shall be the duty of the chief of police to make a written report to the local administrator of any violations of this chapter or any amendment thereof, or any of the rules or regulations of the local administrator, observed by any member of the police department of the city. Whenever any licensee shall violate any provision of this chapter or any ordinance relating to the subject of alcoholic beverage control or any of the rules or regulations of the local administrator, or any of the provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky, or any amendments or supplements thereto, or any of the rules and regulations adopted by the Kentucky State Alcoholic Beverage Control Board, or any acts of congress, or rules or regulations of any federal board, agency or commission relative to the regulation and taxation of alcoholic beverages, or upon conviction by a court of competent jurisdiction of any such violation the local administrator is hereby authorized and empowered to order the revocation or suspension of any license issued under this chapter.

6.19 Every wholesale distributor of alcoholic beverages sells within the City of Martin, Kentucky, shall report to the finance director of the City of Martin, on a form to be provided by him the following information:

Director of Finance
a. The names of all retailers to whom alcoholic beverages were sold in the preceding quarter.

b. The gross revenues received by the distributor from each retailer.

c. The total quantity of alcoholic beverages sold to each retailer in cans, cases, or kegs, as appropriate, provided that the information provided to the director of finance is calculated to permit the director of finance to determine the quantities of cases, cans, or kegs received by each retailer.

6.20 Temporary Closing. In the course of any one (1) day of operation of a licensed premise, should multiple violations of the ordinance or other statute, or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the city police department, such re-occurrence shall be reported to the local administrator by the chief of police. The ~~local administrator~~ *Police Dept* shall in the interest of public health, safety, morals and welfare ~~direct the chief of police~~ to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the local administrator; such review shall occur on the next business day.

6.21 a. Any license may be revoked or suspended by the local administrator if the licensee shall have violated any of the provisions of KRS 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 or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Chapters 242, 243 and 244 to be created, or if any clerk,

* Director of Finance
is city clerk

agent, servant or employee of any licensee shall violate any of the laws, regulations or ordinances above 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 for any cause which the local administrator in the exercise of his sound discretion deems sufficient. A license may be revoked for any of the reasons for which the local administrator would have been required to refuse a license if the facts had been known.

6.22 a. The local administrator shall furnish to licensee a copy of this ordinance at time license is issued with signed receipt from licensee. Any changes or amendments to same shall be forwarded to licensee at address on the license. Failure to receive or review such changes or amendments or review the ordinance shall not be an excuse or justification for any violation or prevent, remit or decrease any penalty for a violation.

b. All restrictions and prohibitions relating to retail package and drink licenses under this ordinance and KRS Chapters 241, 242, 243 and 244 and rules and regulations promulgated by the ABC Board shall have application to the club licenses.

c. A revocation of suspension of a license shall become effective seven (7) days following the mailing of a notice of revocation or suspension by certified mail, to the licensee and to the owner of the licensed premises. The licensee shall at once surrender his license to the local administrator. If the revoked license is not forthwith surrendered by the licensee, the chief of police at the request of the local administrator shall immediately cause one of his officers to take physical possession of the license and return it to the local administrator.

d. Reserved.

e. Hearings conducted by the local administrator relating to suspension or revocation shall be conducted in the manner prescribed in Section 4. Notice of such hearing shall be mailed to licensee at the address on his application by pre-paid certified mail, return receipt requested. Notice shall set the time and place of such hearing and contain charges of violations.

f. Appeal from the decision of local administrator shall be to the ABC Board.

g. Reserved.

REGULATORY LICENSE FEE

7.1 a. A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued under Section 2. Said license fee for the effective date, September 1, 1982, shall be three (~~5~~) percent, thereafter, the Board of City Council shall adopt at the budget adoption for the fiscal year 1982-83, and each year thereafter, such percentage rates as shall be reasonably estimated to insure full reimbursement to the city for the cost of any additional policing, regulatory or administrative expenses, related to the sale of alcoholic beverages. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed under Section 2 and such regulatory fee shall be applied annually from July 1, 1982.

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b. Payment of such fee shall accompany the tax returns approved for such use by the Board of City Council and shall be submitted to the city finance director by the 20th day of each month for the preceding month's sales, one-twelfth (1/12) of the fee required under Section 2 shall be deducted each month as credit.

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

d. Penalty for failure to file a return and pay monthly remittance by the due date is twenty (20%) percent of the tax for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five (25%) percent of the tax provided, however, that in no case shall the penalty be less than twenty (20%) percent.

e. Interest at the rate of twenty (20%) percent per annum will apply to any late payments.

PENALTIES

8.1 a. Any person, firm or corporation that holds a license for the retail sale of alcoholic beverages who knowingly provides, by sale or gift, directly or indirectly alcoholic beverages for the use or consumption by any one under the age of twenty-one (21) years, shall, for the first offence, be fined the sum of Five-Hundred (\$500.00) Dollars, and shall have his license suspended for a period of seven (7) days; and for the second offense, he shall forfeit the bond set out in Section No. 3 herein, and his license shall be suspended for a period of fourteen (14) days; and for the third offense shall be subject to a fine of Two-Thousand (\$2,000.00) Dollars and revocation of his license.

b. Any person twenty-one (21) years of age or older, not being a licensee, who shall provide, by sale or gift, alcoholic beverages for the use of consumption by person or persons under the age of twenty-one (21) years, shall be fined, for each offense, the sum of Five-Hundred (\$500.00) Dollars.

8.2 Any person who violates any provision of this ordinance for which a penalty is not otherwise provided shall be fined the sum of One-Hundred (\$100.00) Dollars for each offense.

8.3 No person, firm, or corporation, constructing a place of business in the city patronized by and open to the general public or any private club as defined by KRS 243.270, who does not hold the necessary license or licenses, as herein provided, shall permit any person, nor shall himself, sell, barter, loan, give away or drink any alcoholic beverages on the premises of his place of business, nor shall any proprietor of such unlicensed premises patronized by and open to the general public or any agent or employee of such proprietor, have in his possession any alcoholic beverages on any portion of his premises which is open to the general public. Any such sale, barter, loan, gift, or unlawful possession shall render the proprietor of such premises or the person making such sale, barter, loan or gift or having illegally in his possession such alcoholic beverages, or both, liable to a fine of Five-Hundred (\$500.00) Dollars.

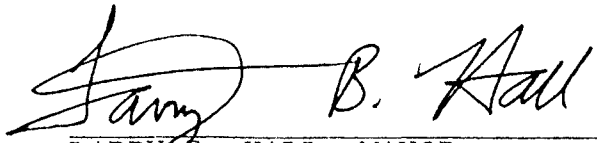
8.4 Upon notice of a suspension of a license by the local administrator, the licensee with the consent of the local administrator, may, in lieu of the suspension, pay to the City of Martin the sum of One-Hundred (\$100.00) Dollars per day for each day of suspension; however, notwithstanding anything contained herein, this section shall not apply to any suspension under Section 8.1.

SEVERABILITY

9.1 Action by a court of competent jurisdiction declaring any section, subsection, phrase or work of this ordinance to be invalid, unconstitutional, and/or void shall not affect the remainder of this ordinance which shall remain in full force and effect.

The City Clerk is directed to publish this Ordinance by reference and not in its entirety.

PASSED AND ADOPTED this the 3RD day of September, 1982, by the Board of City Council.



LARRY B. HALL, MAYOR
CITY OF MARTIN, KENTUCKY

ATTEST:

CITY CLERK

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BEVERAGE CONTROL

CITY ORDINANCE #4

An ordinance levying and imposing a license tax on Retail Liquor and Beer dispensaries in the City of Martin, Kentucky, for the purpose of raising revenues for exercising a supervisory regulation over said dispensaries, registering and issuing license for same, and imposing penalties for violations of any part of this ordinance.

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Section 1

The Board of Trustees of the City of Martin, Kentucky, do Ordain as follows; that, for the purpose of raising revenues for exercising a supervisory regulation over said retail liquor and beer dispensaries, registering and issuing license for same, and imposing penalties for violation of any part of this ordinance, for policing and regulating the conduct of said retail liquor and beer dispensaries in the City of Martin, Kentucky, there is hereby levied and imposed on, and ordered to be collected from all persons, firms or corporations operating retail liquor and beer dispensaries in the City of Martin, Kentucky, a license tax, as privilege license tax, a privilege license, on said retail liquor and beer dispensaries, the sum of \$100.00 for Liquor and \$25.00 for Beer per year beginning with the year July 1, 1938, which license is to be in effect for one year from date unless revoked by the Board of Trustees.

Section 2

The revenues levied and collected above shall be placed in the General fund of the City of Martin, Kentucky and shall be collected by the City Marshall of Said City whose duty it shall be to issue said license and collect therefor, and he shall be allowed for his services the sum of \$1.00 for each license issued, to be added to the cost of said license

Section 3

license tax ordained to be collected hereunder, shall be due and payable on the first of July of each year.

Section 4

Any license issued hereunder may be revoked for cause by the Board of Trustees of said City, and the license may be refunded his proportional part of the unused license, if the Board of Trustees should see cause for so refunding it, provided, however, said proportional part may be retained to pay any fine due said City for violation of law by said licensee.

Section 5

Any person firm or corporation failing to pay for and procure the license hereinbefore set out, before operating a retail liquor and beer dispensary, in the City of Martin, Kentucky shall in either event be fined in sume not less than \$100.00 nor more than \$200.00, and each day said retail liquor and beer dispensaries is operated without procuring a license as provided herein shall constitute a separate offense hereunder, and should they fail to pay or replevy, shall be confined in the jail or at hard labor until said fine and costs are satisfied.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed

The roll being called upon the same the vote was as follows:

Yeas: Dennis Martin, J D Adams, E K Frazier, W G Jaroll and Ted Salisbury.

Nays: None.

All done at a regular meeting of the Board of Trustees of the City of Martin, Kentucky held in the City Hall on the 6th day of June 1938. 9:00am.

Approved Dennis Martin Chairman
Board of Trustees

Attest L. H. Maggard Clerk
City of Martin

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AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF MARTIN, KENTUCKY.

BE IT ORDAINED BY THE ~~BOARD~~ OF CITY COUNCIL OF THE CITY OF MARTIN, KENTUCKY AS FOLLOWS:

DEFINITIONS

This chapter shall be known as and may be cited as the "Alcoholic Beverage Control Ordinance" of the City of Martin, Kentucky.

Section 1.1 The term "alcoholic beverage" means alcoholic brandy, whiskey, rum, gin, beer, ale, porter wine, and all other spiritous, vinous, malt or fermented liquors, liquids and compound, whether medicated, proprietary, patented or not, and by whatever named called, containing more that one per cent (1%) of alcohol by volume, which are fit for use for beverage purposes.

a. "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute from malt, and having an alcoholic content greater than one-half of one per cent by volume and not more than 4.8 percent of alcohol by weight, or 6.02 percent of alcohol by volume.

b. "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne, sparkling and fortified wine of an alcoholic content not exceeding twenty-four (24%) percent by volume. It includes preparations or mixtures vended in retail containers if such preparations or mixtures contain not exceeding fifteen percent (15%) of alcohol by volume.

c. "Distilled spirits" means any alcoholic beverage, except malt beverage and wine.

Section 1.2 The term "person" shall be construed to include within its meaning "person", "firm", "partnership", "association", "company", "corporation", or "fraternal order".

Section 1.3 The term "distributor" shall mean any person, who distributes malt beverages, or distilled spirits, for the purpose of being sold at retail.

Section 1.4 The term "retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

Section 1.5 The term "restaurant" means any retail establishment which derives more than fifty percent (50%) of its gross revenues from the sale of food for consumption on the premises and has a minimum seating capacity of fifty (50) people at tables. The term "tavern" means any retail establishment for which the primary purpose of existence is the retail sale of alcoholic beverages for consumption on the premises, derives less than fifty percent of its gross revenues from the sale of food; or any retail establishment for which the primary purpose of existence is entertainment, and which may, in addition to entertainment, offer food and/or alcoholic beverages for consumption on the premises.

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which has as its purpose, among other purposes, the sale of alcoholic beverages for consumption off the premises and for the purposes of this Ordinance, shall include retail package liquor stores. The term "carry out" shall include, but not be limited to, grocery stores, markets, express-type markets by whatever name known, bait shops, fruit and vegetable markets, drug stores, and similar premises.

Section 1.7 The city alcoholic beverage administrator shall be known as "local administrator".

LICENSES

The following classes of licenses are hereby created and subject to be issued subject to all terms, conditions and qualifications as set out herein.

2.1 Retail Package Liquor License, which shall authorize the retail sale of legal distilled spirits and wine for consumption other than on the premises.

2.2 Retail Malt Beverage License, which shall authorize the retail sale of malt beverages.

2.3 Retail Restaurant Wine License, which shall authorize the retail sale of wine for consumption on the premises.

2.3.1 Malt Beverage Distributor's License which shall authorize wholesale traffic of malt beverages to Retail Malt Beverage licensees.

2.3.2 Wholesale Liquor License which shall authorize the wholesale traffic of distilled spirits and wine to Retail Package licensees, and the wholesale traffic of wine to Restaurant Wine licensees.

The licenses to be issued under the classifications set out herein shall be in conjunction with the State licenses issued by the State Alcoholic Beverage Commission.

2.4 No license shall be issued to any person or persons not a full citizen of the United States and who have not resided continuously in the Commonwealth of Kentucky and in Floyd County, Kentucky, for at least one full year prior to the filing of an application for a license; excepting, however, that a corporation shall be deemed to meet the requirements of this section if it has been doing business in Floyd County, Kentucky, continuously for one full year prior to the filing of an application, or if all stockholders of the corporation meet the requirements of this section. Further, the requirements of this section relative to residency in Floyd County, Kentucky, shall not apply to Wholesale Liquor or Malt Beverage Distributor licenses.

2.5 No license shall be issued to any person who has been convicted of an alcohol related felony or any other felony within two years prior to filing an application with the City.

2.6 Reserved

2.7 The provisions of this section shall not apply to a corporation, but such provisions shall apply to all officers, directors, and any person who is to manage or conduct the business premises.

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(21) years of age.

2.9 No application shall be approved to any retail package liquor store, carry-out, or restaurant premises within two-hundred (200) feet of any school, hospital, church, or any residential district unless the applicant can show proof that a certified letter was sent to an officer of the school, hospital, church or to the residents, stating the applicant's intentions.

2.10 Reserved.

2.11 Reserved.

2.12 Reserved.

2.13 No license shall be granted to a corporation if more than ten (10%) percent of the stock therein is held by any person not eligible for a license under this ordinance, except as otherwise provided in Section 2.4.

2.14 No license issued by the City of Martin, Kentucky, to sell alcoholic beverages at retail shall be transferrable or assignable to any other person or any other premises, or to any other part of the building containing the licensed premises, unless the transferee or assignee has submitted application to the local administrator and the same has been approved, except, however, that if a corporation or partnership that holds a license to sell alcoholic beverages at retail is dissolved, or if a receiver, assignee for the benefit of creditors, or a committee for the property of a licensee is appointed during the time for which a license is granted, or if a licensee dies during said time and a personal representative is appointed for his estate, that corporation, partnership, receiver, assignee, personal representative, or committee for a licensee adjudged to be incompetent to continue the business of selling alcoholic beverages at retail upon the licensed premises for the balance of the term for which the license was effective, with the same right, and subject to the same restrictions and liabilities as if he had been the original licensee, after making written application to the local administrator and State Alcoholic Beverage Control Board, setting forth the circumstances by which he has succeeded to the rights of the original licensee, may continue the business with the approval of the administrator.

Provided further, however, that in the event of destruction by an act of God or unavoidable accident of the premises for which a licensee has been issued, the local administrator may change the license to authorize continuance of business at other premises upon written application by the licensee for such a transfer, setting out the circumstances by virtue of which he desires such a transfer to be made.

A license issued pursuant to this ordinance shall be posted while in force in a conspicuous place in the room or place where alcoholic beverages are kept for sale. If ever a license shall be lost or destroyed without fault on the part of the owner or his agent or employee, a duplicate in lieu thereof under the original application shall be issued by the City Clerk on satisfying himself as to the facts, upon the payment of a fee of Five (\$5.00) Dollars.

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2.15 All licenses granted hereunder shall be subject to the conditions of this and other ordinances of the City of Martin, Kentucky.

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

2.17 No license to sell alcoholic beverages shall be granted to any person, firm, or corporation who or which is delinquent in payment of any taxes due to the city at the time of issuing said license; nor shall any license be granted to sell upon the premises or property, owned and occupied by the licensee, upon which there are any delinquent taxes due to the city. In such cases, if taxes due the city for any taxing period prior to the date of application for a license, are unpaid and delinquent upon the property or premises upon which a license to sell is sought, the local administrator, may, in his discretion, approve a license to sell after receiving from the city finance director, satisfactory to him for taking care of the indebtedness represented by the unpaid and delinquent taxes above referred to. This section shall apply only to taxes which are due and payable by the licensee.

2.18 All license, except special temporary licenses, issued under this chapter shall expire on the thirtieth day of June of each year and the fees therefore shall be due and payable on July first of each year.

2.19 The license tax for every license issued under this chapter shall be payable by the person making application for such license and to whom is issued such license, and no other person, firm, or corporation shall pay for any license issued under this chapter. In addition, to all other penalties provided in this chapter, a violation of this section shall authorize and require the revocation of the license, the tax for which was paid by another and also the revocation of the license, if any, of the person, firm, or corporation so paying for the license of another.

2.20 All license fees from licenses issued under this chapter shall be collected by the City Clerk.

2.21 No license shall be issued to any person, firm, or corporation at any store or other place of business where the majority of its business consists of selling school books, school supplies, food, lunches or drinks to minors, or to a business that is a penny arcade or similar establishment that receives the majority of its business from minors, regardless of the distance of such stores or other place of business from a church, school or hospital.

2.22 Reserved

2.23 Nothing in this chapter contained shall excuse or relieve the owner, proprietor, employee, or person in charge of any licensed premises in the city, where alcoholic beverages are sold, 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.

2.36 Every person, firm, or corporation who engages in the business of wholesale liquor dealer, as defined in KRS 243.170, within the corporate boundaries of the city shall pay in advance to the city clerk an annual fee of *four hundred (\$400.00)* Dollars, or the maximum allowed by law.

2.37 For the purposes of Sections 2.35 and 2.36, a person shall be deemed to be engaged in the business described therein if that person, firm or corporation solicits business, or makes delivery within the corporate boundaries of the City of Martin, Kentucky.

2.38 All city licenses shall be in such form as may be prescribed by the Board of City Council and shall contain:

- a. the name and address of the licensee;
- b. the number of the licensee;
- c. the type of license;
- d. a description by street and number, or otherwise, of the licensed premises;
- e. the name and address of the owner of the building in which the licensed premises are located;
- f. the expiration date of the license;
- g. 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;
- h. each kind of license shall be printed so as to be readily distinguished from the other kinds.

APPLICATIONS

3.1 The local administrator shall not approve any application for an original license to sell alcoholic beverages until after the applicant shall have caused to be published for at least one (1) time within fourteen (14) days before the application is filed, a concise advertisement stating the name and address of the applicant as well as the name and address of the business and the type of license applied for in a newspaper of general circulation in the city, which is published locally.

3.2 Contents: Application for the retail sale of alcoholic beverages shall be made in writing, properly subscribed and sworn to before a notary public or other officer authorized to administer an oath, wherein shall be stated the applicant's name, age, date of birth, social security number, and address, and the exact location by street number or otherwise, of the premises where the alcoholic beverages are to be sold, and the name of the owner of said premises, and shall be accompanied by a certified copy of the deed or lease, whichever applies, by which the applicant holds the premises. If the applicant be a corporation, the applicant shall provide the name, age, date of birth, social security number, and address of each member of the board of directors, each officer of the corporation. The corporation shall provide the same information pertaining to the person who is to manage or conduct the sale of alcoholic beverages, and how long the same has been a resident of the Commonwealth of Kentucky.

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2.24 The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (Chapters 241, 243 and 244, Kentucky Revised Statutes) and all amendments and supplements thereto, are adopted so far as applicable as a portion of this chapter, except as otherwise lawfully provided herein.

2.24.1 Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the local administrator. Such books and records shall be available at all reasonable times for inspection by the local administrator or any of his authorized representatives.

2.25 Dancing shall not be permitted on any premises within the city for which an alcoholic beverage license is held.

Exception - Fraternal Organization - (Amvets)
2.26 Penalty for Dancing. Any person, firm or corporation who shall permit dancing on the premises for which an alcoholic beverage license is held shall be fined One-Hundred (\$100.00) Dollars for each day that dancing is permitted.

2.27 Reserved.

2.28 Reserved

2.29 Pro-ration abatement of fees. No license fee for a license issued under this section shall be pro-rated or abated except upon the loss or destruction of the licensed premises.

2.30 Collection of fees. All license fees from licenses issued under this Chapter shall be collected by the city clerk.

2.31 For the purpose of regulating the location of retail package liquor and retail drink licenses in the City and various zones or districts as fixed and established by the Martin Planning and Zoning Ordinance and the zoning map adopted thereby, as the same may from time to time be amended are hereby adopted as a part of this chapter.

2.32 No license shall be issued to any person, firm or corporation for selling at retail or wholesale any alcoholic beverages at any premises or location where such business is prohibited under the present zoning ordinance or any other ordinances of the city or any ordinance supplementary or amendatory to same and any license issued in violation of this subsection shall be void.

2.33 Any person, firm or corporation who desires to sell wine at a restaurant facility and who meets the requirements established in KRS 243.032 shall first obtain a restaurant wine license. Each restaurant wine license holder shall pay, in advance, to the city clerk an annual license fee of Six-Hundred (\$600.00) Dollars or maximum allowed by law.

2.34 Every person, firm or corporation who or which sells at retail any malt beverage within the corporate boundaries of the city for consumption either on or off the licensed premises shall pay to the city clerk an annual fee of ~~Four-Hundred (\$400.00)~~ *Two Hundred* ~~200.00~~ Dollars or maximum allowed by law.

2.35 Every person, firm, or corporation who engages in the business of wholesale malt beverage distributor, as defined in KRS 243.280, within the corporate boundaries of the city shall pay in advance to the city clerk, an annual fee of Four-Hundred (~~\$400.00~~) Dollars or the maximum allowed by law.

be conducted as a restaurant, carry-out, or a retail package liquor store or wholesale distributor.

3.5 Each application shall be accompanied by a bond to the City of Martin, Kentucky, in the penal sum of Two-Thousand (\$2,000.00) Dollars, executed by the applicant with one (1) or more sureties acceptable to the city, or a cash bond of Two-Thousand (\$2,000.00) Dollars, conditioned upon the applicant's faithful compliance with the observance of all laws in the conduct of the proposed business, and that all fines and penalties which shall accrue during the term of said license will be paid, with all costs taxed or allowed in any action or proceeding brought or instituted for violation of the state act or ordinances, or amendatory or supplemental act or ordinance. All cash bonds posted to the City shall bear interest at the legal rate until returned. Cash bonds shall be returned upon the execution of a bond bearing good sureties.

3.6 Should the local administrator of the city at any time have reasonable grounds to believe that any 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 office of the bureau of records and identification of the police department of the city for the purpose of having his or her fingerprints taken.

3.7 The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

3.8 All licenses granted under this ordinance shall be approved by the local 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 as amended and supplemented from time to time, and upon such additional forms as may be required by this ordinance or by regulation of the local administrator. Each application shall be accompanied by a certified check, or a postal or express money order for the license fee.

HEARINGS

4.1 Should the applicant or licensee request the local administrator to hold a hearing, the general practice procedures found in the Kentucky Rules of Civil Procedure shall apply.

4.2 Definitions. All words are used as defined in the Alcoholic Beverage Control Law of Kentucky (KRS Chapters 241, 242, 243 and 244) unless otherwise specified.

4.3 Appearances. Any applicant or licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the Board.

4.4 Briefs. Briefs may be filed at the option of the applicant or licensee.

4.5 Rules of Evidence. The rules of evidence governing civil proceedings in courts in the Commonwealth of Kentucky shall govern hearings before the local administrator; provided, however, that the hearing officer may relax such rules in any case where, in his judgment, the ends of justice will be better served by so doing.

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... subpoenas. The local administrator shall have subpoena power for such hearings and shall at the request of applicant, made with names and addresses supplied, issue such subpoenas.

4.7 Transcript. Upon request and at the cost of the applicant or licensee the hearing may be transcribed.

4.8 Decisions. All decisions shall be written and based upon the evidence developed at the hearing.

ADVERTISING RESTRICTIONS

5.1 Every licensee shall be required to comply with existing statutes pertaining to advertising, and all existing ordinances regulating signs, as amended from time to time.

MISCELLANEOUS REGULATIONS

6.1 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.

6.2 No person, firm, or corporation licensed to sell alcoholic beverages at retail shall permit any person or persons to open any bottle of distilled spirits, wine, or malt beverages nor its contents consumed on the licensed premises unless the licensee has been designated a tavern or restaurant licensee by the local administrator.

6.3 No person, firm, or corporation who holds a license to sell any alcoholic beverage shall permit any person to drink on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises. No licensee shall sell alcoholic beverages to any drunk or intoxicated person.

6.4 If any distilled spirits or malt beverages are found on the outside of the locked or closed-off department of any premises at which a license is held to sell distilled spirits at retail at any hours during which the licensee is prohibited by the Kentucky Alcoholic Beverage Control Act or by this chapter from selling said distilled spirits or malt beverages, a prima facie presumption shall arise that such distilled spirits or malt beverages were kept on the outside of the locked or closed-off department for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license, and in addition to other penalties provided for violation of this section the local administrator shall be and is hereby authorized to confiscate such distilled spirits or malt beverages. This section shall also apply to wine.

6.5 It shall be unlawful for any person under the age of twenty-one (21) years to enter any premises licensed for the sale of alcoholic beverage for the purpose of purchasing or having delivered to him or her, any alcoholic beverages.

6.6 It shall be unlawful for any person under the age of twenty-one (21) years to purchase or attempt to purchase, or have another purchase for him or her, any alcoholic beverage at any premises licensed for the sale of alcoholic beverages. It shall be unlawful likewise for any person to aid or assist any person under the age of twenty-one (21) years in purchasing or having delivered to him or her, any such alcoholic beverage on or off such premises.

one (21) years of age to misrepresent his or her age for the purpose of inducing any retail licensee, or any employee of any retail license, to sell or serve any alcoholic beverages to him or her.

6.8 It shall be the duty of every retail licensee to display at all times in a prominent place a printed card not smaller than 12" x 16", which shall read substantially as follows:

WARNING TO MINORS

Any person under the age of 21 years, under City Ordinance are subject to fine of \$100.00 if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.
2. 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.

6.9 It shall be unlawful for any person under the age of twenty-one (21) years to possess in the City of Martin, Kentucky, any alcoholic beverages outside of the confines of his, or her, abode or residence. Any alcoholic beverages found in possession of such person shall be liable to seizure as contraband.

Any person who shall violate the provisions of this section shall, in addition to having the possessed alcoholic beverage seized as contraband, be fined \$100.00 for each violation.

6.10 No retail licensee shall sell alcoholic beverages between the hours of 12 o'clock (midnight) and the hour of ~~6~~⁸ o'clock a.m. prevailing time.

6.11 No retailer as defined in this Ordinance shall permit the consumption of alcoholic beverages upon the premises.

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

6.13 Each licensed premises shall at all times be conducted in a orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premise.

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

6.15 No distributor or retail dealer shall buy any alcoholic beverage in the city except from a person holding a license in conformity with this ordinance.

6.16 A violation of this Ordinance by a duly authorized agent or employee of a licensee or a licensee shall constitute a violation of the license and whenever the holder of any license under this ordinance shall violate any portion of the ordinance or any regulation adopted pursuant thereto, the local administrator shall suspend or revoke such license.

6.17 It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages. In addition to other penalties provided for the violation of this section, the chief of police or the local administrator shall have the authority to confiscate any and all such radio receiving apparatus.

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6.18 A violation of any of the provisions of this chapter or any amendment thereof, by a duly authorized agent or employee of a licensee shall constitute a violation by the licensee. It shall be the duty of the chief of police to make a written report to the local administrator of any violations of this chapter or any amendment thereof, or any of the rules or regulations of the local administrator, observed by any member of the police department of the city. Whenever any licensee shall violate any provision of this chapter or any ordinance relating to the subject of alcoholic beverage control or any of the rules or regulations of the local administrator, or any of the provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky, or any amendments or supplements thereto, or any of the rules and regulations adopted by the Kentucky State Alcoholic Beverage Control Board, or any acts of congress, or rules or regulations of any federal board, agency or commission relative to the regulation and taxation of alcoholic beverages, or upon conviction by a court of competent jurisdiction of any such violation the local administrator is hereby authorized and empowered to order the revocation or suspension of any license issued under this chapter.

6.19 Every wholesale distributor of alcoholic beverages sells within the City of Martin, Kentucky, shall report to the ~~finance~~ *finance & city clerk* director of the City of Martin, on a form to be provided by him the following information:

a. The names of all retailers to whom alcoholic beverages were sold in the preceding quarter.

b. The gross revenues received by the distributor from each retailer.

c. The total quantity of alcoholic beverages sold to each retailer in cans, cases, or kegs, as appropriate, provided that the information provided to the ~~director of finance~~ *city clerk* is calculated to permit the director of finance to determine the quantities of cases, cans, or kegs received by each retailer.

6.20 Temporary Closing. In the course of any one (1) day of operation of a licensed premise, should multiple violations of the ordinance or other statute, or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the city police department, such re-occurrence shall be reported to the local administrator by the chief of police. The local administrator shall in the interest of public health, safety, morals and welfare direct the chief of police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the local administrator; such review shall occur on the next business day.

6.21 a. Any license may be revoked or suspended by the local administrator if the licensee shall have violated any of the provisions of KRS 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 or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Chapters 242, 243 and 244 to be created, or if any clerk,

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b. Payment of such fee shall accompany the tax returns approved for such use by the Board of City Council, and shall be submitted to the city ~~finance director~~ by the 20th day of each month for the preceding month's sales, one-twelfth (1/12) of the fee required under Section 2 shall be deducted each month as credit. C/erk

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

d. Penalty for failure to file a return and pay monthly remittance by the due date is twenty (20%) percent of the tax for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five (25%) percent of the tax provided, however, that in no case shall the penalty be less than twenty (20%) percent.

e. Interest at the rate of twenty (20%) percent per annum will apply to any late payments.

PENALTIES

8.1 a. Any person, firm or corporation that holds a license for the retail sale of alcoholic beverages who knowingly provides, by sale or gift, directly or indirectly alcoholic beverages for the use or consumption by any one under the age of twenty-one (21) years, shall, for the first offence, be fined the sum of Five-Hundred (\$500.00) Dollars, and shall have his license suspended for a period of seven (7) days; and for the second offense, he shall forfeit the bond set out in Section No. 3 herein, and his license shall be suspended for a period of fourteen (14) days; and for the third offense shall be subject to a fine of Two-Thousand (\$2,000.00) Dollars and revocation of his license.

b. Any person twenty-one (21) years of age or older, not being a licensee, who shall provide, by sale or gift, alcoholic beverages for the use of consumption by person or persons under the age of twenty-one (21) years, shall be fined, for each offense, the sum of Five-Hundred (\$500.00) Dollars.

8.2 Any person who violates any provision of this ordinance for which a penalty is not otherwise provided shall be fined the sum of One-Hundred (\$100.00) Dollars for each offense.

8.3 No person, firm, or corporation, constructing a place of business in the city patronized by and open to the general public or any private club as defined by KRS 243.270, who does not hold the necessary license or licenses, as herein provided, shall permit any person, nor shall himself, sell, barter, loan, give away or drink any alcoholic beverages on the premises of his place of business, nor shall any proprietor of such unlicensed premises patronized by and open to the general public or any agent or employee of such proprietor, have in his possession any alcoholic beverages on any portion of his premises which is open to the general public. Any such sale, barter, loan, gift, or unlawful possession shall render the proprietor of such premises or the person making such sale, barter, loan or gift or having illegally in his possession such alcoholic beverages, or both, liable to a fine of Five-Hundred (\$500.00) Dollars.

8.4 Upon notice of a suspension of a license by the local administrator, the licensee with the consent of the local administrator, may, in lieu of the suspension, pay to the City of Martin the sum of One-Hundred (\$100.00) Dollars per day for each day of suspension; however, notwithstanding anything contained herein, this section shall not apply to any suspension under Section 8.1.

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