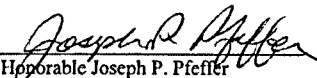


COMMONWEALTH OF KENTUCKY
MASON FISCAL COURT
ORDER NO. 15- 01

The undersigned, Hon. Joseph P. Pfeffer, having been duly elected, sworn, and assumed office as Mason County Judge/Executive, and being authorized by KRS 67.711 to appoint a Deputy Judge/Executive, and finding that Richard Newberry meets all requirements for holding such office, and the Mason Fiscal Court being otherwise sufficiently advised,

IT IS HEREBY ORDERED that Richard Newberry is appointed as Deputy Judge/Executive, and having been administered the oath of office shall enter upon the execution of duties as prescribed by KRS 67.711 and KRS 67.730 to 67.745 and as otherwise set out; this appointment being effective this date at 9:00 a.m.

ENTERED this the 5th day of January, 2015.


Honorable Joseph P. Pfeffer
Mason County Judge/Executive

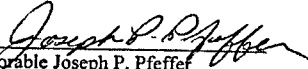
ATTEST:


Stephanie Schumacher
Mason County Clerk

COMMONWEALTH OF KENTUCKY

COUNTY OF MASON

The foregoing Constitutional Oath of Office was administered by the undersigned,
Judge/Executive to Richard Newberry, who personally appeared before the undersigned and who
answered affirmatively thereto on Monday, January 5th, 2015, at the Mason Fiscal Courtroom in
Maysville, Mason County, Kentucky.


Honorable Joseph P. Pfeffer
Mason County Judge/Executive

COMMONWEALTH OF KENTUCKY
MASON FISCAL COURT
ORDINANCE NO. 14- 02

AN ORDINANCE REVOKING ORDINANCE
NUMBER 13-01 TO ABOLISH COUNTY LICENSES
AND FEES, AND TO REGULATE THE SALE
AND DISTRIBUTION OF ALCOHOLIC
BEVERAGES WITHIN MASON COUNTY
OUTSIDE OF THE CORPORATE LIMITS OF
THE CITY OF MAYSVILLE

WHEREAS, the Mason Fiscal Court deems it necessary and appropriate to amend its Ordinance Number 13-01, specifically to eliminate all county alcoholic beverage license fees and all sections and provisions relating thereto; and

WHEREAS, the Mason Fiscal Court finds that the costs of administering such license application and issuance outweighs the income generated from the fees, and that the public is sufficiently protected by the licensing program administered by the Commonwealth of Kentucky; and

WHEREAS, the Mason Fiscal Court finds it necessary to regulate the use of alcoholic beverages within Mason County in order to protect the health, safety and welfare of the citizens of this county.

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court of the County of Mason, Kentucky, as follows:

SECTION 1. REPEAL OF PRIOR ORDINANCE.

Ordinance No. 13-1 is hereby REPEALED, effective December 31, 2013, and the county licenses and fees provided therein are hereby eliminated., and such Ordinance is replaced and

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MASON FISCAL COURT

superseded by this Ordinance.

SECTION 2. DEFINITIONS.

The following words, terms and phrases, when used in this Ordinance shall have the meaning ascribed to them in this section, unless the context of the provision requires otherwise; and, in addition to the definitions and rules of construction set out in this Section, the definitions contained in KRS 241.010 are adopted as the meaning of such words used in this chapter:

- 1) ADMINISTRATOR, ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR, or COUNTY ADMINISTRATOR. The Judge/Executive shall be Mason County's Alcoholic Beverage Control Administrator.
- 2) ALCOHOLIC BEVERAGE. Every liquid or solid, whether patented or not, containing alcohol in any amount in excess of more than one percent (1%) of alcohol by volume, which is capable of being consumed by human beings. It includes every beverage for which the Commonwealth of Kentucky requires a license under KRS Chapter 243.
- 3) BOARD. The State Alcoholic Beverage Control Board created by KRS 241.030.
- 4) CONVICTED OR CONVICTION. A finding of guilt resulting from a plea of guilty, an Alford plea, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.
- 5) COUNTY. Mason County, Kentucky.
- 6) DISTILLED SPIRITS. Any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.
- 7) LICENSE. Any license issued pursuant to KRS 243.020 to 243.670.

- 8) **LICENSEE.** Any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.
- 9) **MALT BEVERAGE.** 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 KRS Chapter 242.
- 10) **PREMISES or LICENSED PREMISES.** A building or structure and does not include any apartment structures, parking lots or areas outside the confines of such building or structure.
- 11) **RESTAURANT or BONA FIDE RESTAURANT.** A facility where the usual and customary business is the serving of meals to consumers and that has a bona fide kitchen facility which has been inspected, approved, and holds a valid certification by the Mason County Health Department, and that derives at least seventy percent (70%) of its total gross receipts from the sale of food. The name of the establishment must also convey to members of the general public that the principle business of the facility is the sale of food.
- 12) **RETAIL SALE.** The sale for use or consumption and not for resale.
- 13) **SALE.** 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.
- 14) **STATE LICENSE.** Any license issued pursuant to KRS Chapters 241 to 244.
- 15) **WHOLESALE SALE.** A sale to any person for the purpose of resale.
- 16) **WINE.** The product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and

sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake.

SECTION 3. ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR - OFFICE AND FUNCTIONS.

There is hereby created the office of Alcoholic Beverage Control Administrator. The Administrator shall be the Mason County Judge/Executive. The duties of the Administrator are to carry out the provisions of this ordinance and all other state and local laws pertaining to the sale of alcoholic beverages in the County of Mason.

SECTION 4.

A. LICENSE REQUIRED.

It shall be unlawful to sell or offer for sale, or dispense, or have in his possession for sale, any alcoholic beverage within the county without having the appropriate state license provided for and required by state law, 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.

B. LICENSE CONDITIONS.

All state licenses issued shall be subject to the following conditions:

- (1) A Quota Retail Package License shall be issued only for the portion of the premises located on the street level, and the place or location of the licensed premises shall be written onto the license.
- (2) A Non-Quota-2 (hereinafter "NQ-2") Retail Drink License for the sale of distilled

spirits by the drink at restaurants, motels, hotels, and inns shall be issued only on the condition that hotels, motels, or inns must have not less than fifty (50) sleeping units and dining facilities for not less than one hundred (100) persons. A restaurant must be a bona fide restaurant establishment, open to the general public and having dining facilities for not less than one hundred (100) persons, and must derive at least seventy percent (70%) of their total gross receipts from the sale of food.

(3) A restaurant NQ-2 Retail Drink License may be issued to an owner or lessee of a bona fide restaurant for the sale of wine, distilled spirits, and malt beverages by the drink, or a Quota Retail Drink License may be issued to such an owner for the sale of distilled spirits and wine by the drink (unless previously restricted to wine only, in which case the licensee would be so restricted). Other conditions for such licensees shall be governed by KRS 243.032.

(4) Applicants shall obtain and present with the state application a fire marshal's certificate as to seating capacity of the dining facility, a food service permit from the health department and an inspection and certification by the county fire chief that the premises of the applicant meet all fire, building and safety standards.

(5) All alcoholic beverages must be consumed in accordance with the alcohol beverage license requirement.

(6) No licensee shall require a minimum cover charge, or charge admission to the premises.

(7) All licensees shall conduct alcohol awareness training annually for all employees and the certificate for same must be available to the Administrator.

(8) No license for the sale of alcoholic beverages at retail shall be used for any premises unless the applicant for the license is the owner of the premises or is in possession of

the premises under a written lease for a term of not less than the license period.

(9) No licensee shall sell any intoxicant or alcoholic beverages behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide it or screen from the public view. No violation of this provision occurs if the window screening becomes necessary due to bright sun conditions.

(10) A licensee which holds a NQ-2 License for hotels, motels, inns and restaurants may not hold for the same premises a Quota Retail Package License.

(11) No gaming device of any kind other than Commonwealth of Kentucky sanctioned lottery sales shall be permitted upon any licensed premises, nor shall any gambling of any kind be permitted upon such licensed premises.

(12) Live entertainment shall be permitted upon any licensed premises, but not beyond one (1) hour past the mandated close time for alcohol sales.

SECTION 5.

A. HOURS OF SALES PROHIBITED.

(1) No premises for which there has been granted an alcoholic beverage license referenced within this ordinance or within KRS Chapter 243 shall remain open for any purpose between the hours of 12:00 midnight and 6:00 a.m. on Monday through Saturday. No premises for which there has been granted an alcoholic beverage license referenced within this ordinance or within KRS Chapter 243 shall remain open for any purpose on Sunday except between the hours of 1:00 p.m. and 10:00 p.m. when the licensees are authorized to operate in accordance with their licenses.

(2) The licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs,

provided that such operation until such hour is consistent with the license issued by the state board and the regulations issued thereby.

(3) Provided, that if a distilled spirits or wine licensee provides a separate department within his or her 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 his or her business as such licensee, and the department is kept locked during the times mentioned above, he or she shall be deemed to have complied with this section.

(4) For the purposes of this section, the phrase "No premises for which there has been granted an alcoholic beverage license referenced within this ordinance or within KRS Chapter 243 shall remain open" shall mean no alcohol beverage containers open or closed shall remain within the area available for customers, and doors to the premises closed and locked, and parking lot cleared of all customers. The hours defined in this section for prohibited use or sale of alcoholic beverages are applicable to owners, agents, and employees of the premise, as well as customers.

B. ALCOHOLIC BEVERAGES - PREMISES.

(1) Any person or licensee which owns, operates or controls any business establishment which serves or provides any type of alcoholic beverage shall prohibit the removal of any such alcoholic beverage from inside the licensed premise to the outside of the licensed premise if said alcoholic beverage is in any opened container.

(2) Any person or licensee which owns, operates or controls any business establishment where alcoholic beverages are served or provided shall prohibit the drinking of said alcoholic beverages on any parking lot which is adjacent, connected with or used by the patrons of such business establishment which is under the direct control of the license.

(3) No person shall drink any alcoholic beverage on or in any parking lot which is made available for use by the patrons of a licensed premises, which is under the direct control of a licensee or which is part of a licensed premises.

(4) No person shall consume or be in possession of any alcoholic beverage on licensed premises other than alcoholic beverages sold and dispensed by the licensee. The licensee or his agent shall have the authority to order the immediate removal of any alcoholic beverage carried onto licensed premises in violation of this section.

(5) Exemption for Outdoor Festivals -- there is exempted from this section any person or licensee which holds a Special Temporary License, which license permits the operation of an outdoor festival, if said festival is conducted no more than three (3) consecutive days annually.

(6) Advertising Alcoholic Beverages Near a School or Church Prohibited -- no licensee shall advertise alcoholic beverages by a trade name, trade-mark, or in any other manner within two hundred (200) feet of the property line of any school, school playground, day care, nursery, or church. The distance shall be by straight line.

C. RETAIL PREMISES NOT TO BE DISORDERLY.

(1) A retail licensee, a patron, or the licensee's agents, servants, or employees shall not cause, suffer, or permit the licensed premises to be disorderly.

(2) Acts which constitute disorderly premises consist of causing, suffering, or permitting patrons, the licensee, or the licensee's servants, agents, or employees to cause public inconvenience, annoyance, or alarm, or create a risk through:

- (a) Engaging in fighting or in violent, tumultuous, or threatening behavior;
- (b) Making unreasonable noise;

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency;

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;

(e) Creating a public nuisance;

(f) Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or

(g) Failing to maintain the minimum health, fire, safety, or sanitary standards established by the state or a local government, or by state administrative regulations, for the licensed premises.

D. CONDUCTING BUSINESS WITH A MINOR.

(1) As prohibited by KRS 244.080 and 244.085, no person shall cause, permit, encourage, or engage in any of the following actions in the County:

(a) The possession or consumption of any alcoholic beverages by any person under twenty-one (21) years of age in or upon any licensed premises or public places; and

(b) The misrepresentation of the name, address, age, or other identification of any person under twenty-one (21) years of age for the purpose of obtaining alcoholic beverages.

E. AIDING OR ASSISTING PERSONS UNDERAGE.

It shall be unlawful for any person to aid or assist any person under the age of twenty-one (21) years in purchasing, delivering, serving, or in any way procuring directly or indirectly any alcoholic beverages.

F. POSTING OF SIGNS - DISPLAY OF LICENSE.

In accordance with KRS 244.083 and this ordinance, every retail licensee shall cause to

be displayed in a conspicuous, prominent place on the license premises each of the following documents so that they may be seen and observed by all persons entering the licensed premises:

(1) A sign or placard at least 18 inches by 11 inches in size with the following message printed on or displayed thereon in 30 point or larger type:

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

1. Enter licensed premises to buy or have served or delivered to them any alcoholic beverages; or
2. Possess, purchase or attempt to purchase any alcoholic beverages; or
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.”

(2) All valid state licenses issued therefore. The failure to so display such licenses shall be prima facie evidence that no such valid licenses have been issued or exist and all actions, business, and transactions authorized thereby conducted on such premises are illegal and in violation of the provisions hereof and the state statutes and regulations of the State Alcoholic Beverage Control board in regard thereto.

G. TEMPORARY SUSPENSION OF SALE.

The Administrator shall have the right to suspend the sale, furnishing, or delivery of alcoholic beverages throughout the entire county, or any portion thereof whenever said Administrator considers such action necessary by reason of a serious public emergency such as a riot, insurrection, pestilence, epidemic, or any catastrophe of such proportions as would effect the general welfare, public health, safety and morals of all the citizens of the County in general. The Alcoholic Beverage Control Board of the state shall be notified of any such suspension.

SECTION 6. SCOPE OF COVERAGE.

This ordinance shall apply to all areas of Mason County outside of the corporate city limits of the city of Maysville, which has its own regulatory ordinances in regard hereto.

SECTION 7. SEVERABILITY.

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 8. PENALTY.

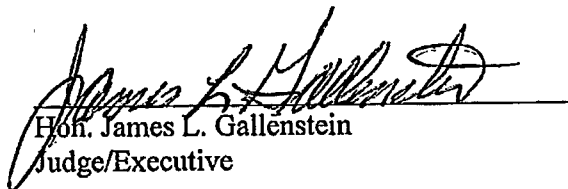
(A) Any person, firm, or corporation who shall violate any provisions of this chapter shall be guilty of a misdemeanor and shall be punished as follows:

(1) If for a violation of any state statutory provision relating to alcoholic beverage control, licensing, prohibition, restrictions, or regulations incorporated in this chapter, the penalty shall be the same as provided by the statute.

(2) If for a violation of any provision of this ordinance by a fine of not more than two hundred and fifty dollars (\$250.00), or by imprisonment in jail for not more than ninety (90) days, or both, in the discretion of the criminal court (a Class B misdemeanor).

SECTION 9. ENACTMENT.

Introduced and given first reading at a regular meeting of the Mason Fiscal Court on December 10, 2013, and fully adopted after the second reading at the regular session of Mason Fiscal Court on February 11th, 2014. This ordinance shall take effect and be in full force when passed, published and recorded according to law.


Hon. James L. Gallenstein
Judge/Executive

ATTESTED BY:

Amy Oshee

Clerk, Mason Fiscal Court

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MASON COUNTY