

CITY OF OLIVE HILL, KENTUCKY
ORDINANCE 23 -2016

**AN ORDINANCE AMENDING ALCOHOL BEVERAGE CONTROL
ORDINANCE OF THE CITY OF OLIVE HILL, KENTUCKY
PERMITTING SUNDAY SALES FOR PRIVATE CLUBS HOLDING A
NON-QUOTA TYPE 3 (NQ3) RETAIL DRINK LICNSE.**

WHEREAS, the City of Olive Hill, Kentucky held a local option election March 11, 2014 to authorize the manufacture, trafficking and sales of alcoholic beverages within the corporate limits of the City of Olive Hill;

WHEREAS, the City enacted Ordinance 2014-03 titled "Alcohol Beverage Control Ordinance of the City of Olive Hill, Kentucky" to regulate the manufacture, trafficking and sales of alcoholic beverages within the corporate limits of the City of Olive Hill;

WHEREAS, the City of Olive Hill, Kentucky permits private clubs in existence for a period of one (1) year prior to the application of a retail drink license to hold a Non-Quota Type 3 (NQ-3) Retail Drink License at its designated premises if the general public is excluded;

WHEREAS, the City of Olive Hill, Kentucky deems it prudent to allow qualifying establishments holding a NQ-3 Retail Drink License to conduct business and sell alcoholic beverages;

WHEREAS, Ordinance 2014-03 currently permits private clubs holding a NQ-3 Retail Drink License to sell alcoholic beverages on Mondays thru Saturdays from the hours of 6:00 a.m. until midnight; and

WHEREAS, the City of Olive Hill, Kentucky recognizes and acknowledges that allowing NQ-3 license holders the privilege of selling alcoholic beverages at its designated premises on Sunday is beneficial to the economic health of the City and its citizens by: providing expanded entertainment; creating increased tourism and activities; creating a multiplying effect on the revenue stream of the community; creating additional revenue for the benefit of local law enforcement; potential job growth; and for all other benefits to the City, its citizens, entrepreneurs and businesses;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OLIVE HILL, KENTUCKY, AS FOLLOWS:

The City of Olive Hill, Kentucky hereby permits Sunday alcohol sales to private clubs holding Non-Quota Type 3 (NQ-3) Retail Drink Licenses from the hours of 6:00 a.m. until midnight. All other terms and conditions of the Alcohol Beverage Control Ordinance, Ordinance

Number 2014-03, shall remain in full force and effect including all other restrictions and regulations presently applying to NQ-3 license holders.

First Reading: May 31, 2016

Second Reading: June 21, 2016

Publication: June 29, 2016


KENNY FANKELL, MAYOR

ATTEST:


ANGELA OWENS, CITY CLERK

ORDINANCE NO. _____

**ALCOHOL BEVERAGE CONTROL ORDINANCE OF THE
CITY OF OLIVE HILL, KENTUCKY**

WHEREAS, local option election held on March 11, 2014 authorizes the manufacture, trafficking and sales of alcoholic beverages within the corporate limits of the City of Olive Hill pursuant to KRS Chapters 241 through 244;

WHEREAS, manufacture, trafficking and sales activities of alcoholic beverages as approved by the recent local option can create increased risks to the health, safety and welfare of the general public and to children and minors in particular, unless appropriate regulation is adopted and enforced;

WHEREAS, the Olive Hill City Council deems it prudent and appropriate to provide by ordinance for the licensing and regulation of all manufacture, trafficking and sales of alcoholic beverages authorized by March 11, 2014 local option election, to provide additional protection by regulation, for the benefit of health, safety and welfare of the general public and of children and minors in particular, and to provide for enforcement of the Ordinance hereinafter set out;

WHEREAS, the City Council in enactment of this Ordinance intends that the Ordinance permit manufacture, trafficking and sales of alcoholic beverages as authorized by state law and regulation to protect and benefit the community by: Promoting economic health within the community; causing the revenue stream created by manufacturing, trafficking and sales of alcoholic beverage activities to have the maximum impact on the economic health of the City of Olive Hill and its business owners and citizens; providing expanded entertainment and cultural venues for local citizens; creating increased tourism and activities; protecting citizens and the character of our neighborhoods, as well as the entire community, from the extremes that may be associated with alcoholic beverage enterprises; Recognizing that monies spent with local businesses have an expanded multiplying effect on the revenue stream of the community; and Realizing that any and all types of alcohol sales venues may not, without proper regulation, be in the best interest of the citizens, their homes or businesses, and that alcohol beverage sales venues and related activities must be regulated.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF OLIVE HILL, KENTUCKY, AS FOLLOWS:**

The above recitals are incorporated by reference and made a part of this Ordinance as if set forth at length herein.

ARTICLE I. GENERAL

Section 1.1: TITLE: This Ordinance shall be known as the “Alcohol Beverage Control Ordinance of the City of Olive Hill, Kentucky”.

Section 1.2: PURPOSE: The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcohol beverage manufacture, trafficking and sales pursuant to the authorization set forth in KRS Chapters 241 through 244 of the Commonwealth of Kentucky

Section 1.3: DEFINITIONS: The definition of the words used in this Ordinance, unless the context requires otherwise, shall have the same meaning as set forth in KRS Chapters 241-244, and all amendments and supplements thereto.

Section 1.4: SCOPE: This Ordinance shall be construed to apply to the manufacture, trafficking and sales of malt beverages, distilled spirits and wine where the context permits such application. Nothing in this Ordinance shall excuse or relieve the licensee, or the owner, proprietor, employee, agent or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance or ordinances of the City of Olive Hill, Kentucky (the “City”) or of any statute or regulation of the state relating to the manufacture, trafficking or sale of alcoholic beverages.

Section 1.5: The provisions of the Alcoholic Beverage Control laws of the Commonwealth of Kentucky as set forth in KRS Chapters 241-244, as well as related state regulations and all amendments and supplements of said statutes and regulations, are adopted and made a part of this Ordinance so far as applicable to this Ordinance except as otherwise lawfully provided for herein.

ARTICLE II. ADOPTION OF COMPREHENSIVE REGULATORY ORDINANCE; CITY LICENSES

Section 2.1: The City determines that an economic hardship exists within the City and the sale of alcoholic beverages by the drink could aid economic growth and the City hereby enacts this comprehensive, regulatory Ordinance covering the licensing by the drink for consumption on the premises.

Section 2.2: The City may from time to time establish other reasonable administrative regulations as may be necessary for the enforcement or administration of this Ordinance.

Section 2.3: CITY LICENSES: In accordance with KRS 243.070, the City imposes license fees as set forth for each license authorized to be issued pursuant to KRS Chapter 243. In the event KRS 243.070 shall hereafter be amended to authorize additional City licenses or fees, the fees for each City license shall be the maximum fee provided by the amended statute.

DISTILLED SPIRIT LICENSES:

Distillers License, per annum	\$500.00
Rectifier’s License, per annum	\$3,000.00
Wholesaler’s Distilled Spirit and Wine License, per annum	\$3,000.00
Quota Retail Package License, per annum	\$1,000.00
Quota Retail Drink License, per annum	\$1,000.00
Special Temporary License, per annum	\$166.66
Non-quota Type 1 Retail Drink License (includes Distilled spirits, wine & malt beverages), per annum	\$2,000.00
Non-quota Type 2 Retail Drink License (includes Distilled spirits, wine & malt beverages), per annum	\$1,000.00
Non-quota Type 3 Retail Drink License (includes Distilled spirits, wine and malt beverages), per annum	\$300.00
Distilled Spirits and Wine Special Temporary Auction License, per event	\$200.00
Special Sunday Retail Drink License, per annum	\$300.00

Extended Hours Supplemental License, per annum	\$2,000.00
Caterer's License, per annum	\$800.00
Bottling House or Bottling House Storage license, per annum	\$1,000.00

MALT BEVERAGE LICENSES:

Brewer's License, per annum	\$500.00
Microbrewery License, per annum	\$500.00
Malt Beverage Distributor's License, per annum	\$400.00
Non-quota Retail Malt Beverage Package License, per annum	\$200.00
Non-quota Type 4 Retail Malt Beverage Drink License, per annum	\$200.00
Malt Beverage Brew-on-Premises License, per annum	\$100.00
Limited Restaurant License (includes distilled spirits, Wine and malt beverages), per annum	\$1,200.00
Limited Golf Course License (includes distilled spirits, Wine and malt beverages), per annum	\$1,200.00

Section 2.4: QUOTA RETAIL PACKAGE LICENSE: Quota retail package license may be issued to a qualifying establishment. Pursuant to KRS 243.240, a quota retail package license authorizes the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail in unbroken packages only, and only for consumption off the licensed premises. Such a licensee shall purchase distilled spirits and wine in retail packages only, and only from licensed wholesalers. The holder of a quota retail package license may sell only to consumers and may make deliveries only at the premises designated for the license.

Section 2.5: No quota retail package license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transactions consist of selling at retail staple groceries or gasoline and lubricating oil.

Section 2.6: NONQUOTA TYPE 2 (NQ2) RETAIL DRINK LICENSE. "Non-quota type 2" or "NQ2" retail drink license may be issued to a qualifying establishment. NQ2 retail drink license may be issued to a hotel with at least fifty (50) sleeping units and dining facilities for at least one hundred (100) persons which receives from its total food and beverage sales at

least fifty percent (50%) of its gross receipts from the sale of food. NQ2 retail drink license may be issued to a restaurant with a minimum seating for fifty (50) consumers at tables.

Section 2.7: A qualifying hotel or a restaurant with seating for at least one hundred (100) consumers at tables that holds an NQ2 retail drink license may purchase, receive, possess and sell distilled spirits, wine and malt beverages at retail by the drink for consumption on the licensed premises.

Section 2.8: The NQ2 retail drink licensee shall purchase distilled spirits, wine, and malt beverages only from licensed wholesalers or distributors.

Section 2.9: The NQ2 retail drink license does not authorize the licensee to sell distilled spirits, wine or malt beverages by the package.

Section 2.10: A restaurant holding a NQ2 retail drink license which has seating for more than fifty (50) but less than one hundred (100) consumers at tables may only purchase, receive, possess and sell wine and malt beverages at retail by the drink for consumption on the licensed premises. The licensee under this subsection shall purchase wine and malt beverages only from licensed wholesalers or distributors. The NQ2 license does not authorize the licensee to sell wine or malt beverages by the package.

Section 2.11: NON-QUOTA TYPE 3 (NQ3) RETAIL DRINK LICENSE. “Non-quota type 3” or “NQ3” retail drink license may be issued to a qualifying establishment. The NQ3 retail drink license may be issued to a private club in existence for longer than one (1) year prior to the license application. The NQ3 retail drink license issued to a private club shall authorize the licensee to exercise the privileges of an NQ2 retail drink licensee at the designated premises if the general public is excluded.

Section 2.12: NON-QUOTA TYPE 4 (NQ4) RETAIL MALT BEVERAGE DRINK LICENSE. “Non-quota type 4” or “NQ4” retail malt beverage drink license may be issued to the holder of a quota retail drink license, microbrewery license, small farm winery license, or any other business wishing to sell malt beverages by the drink for consumption on the premises only. The NQ4 retail malt beverage drink license shall authorize the licensee to sell malt beverages at retail by the drink from the licensee premises for consumption at the licensed premises only and the licensee shall purchase malt beverages only from a distributor.

Section 2.13: SPECIAL SUNDAY RETAIL DRINK LICENSE. Qualifying hotels, motels, inns, or restaurants holding a license to sell alcoholic beverages by the drink for

consumption on the premises may also obtain a Special Sunday Retail Drink License authorizing the limited sale of alcoholic beverages by the drink for consumption on the premises on Sundays between the hours of 1:00 p.m. and 12:00-midnight. The Special Sunday Retail Drink License shall be issued only to those hotels, motels, inns and restaurants authorized to sell alcoholic beverages by the drink for consumption on the premises and to such licensees that apply to the state director of the ABC Board and meet all other legal requirements for obtaining a special Sunday Retail Drink License.

Section 2.14: CATERER'S LICENSE. A caterer's license may be issued to a qualifying establishment. A caterer's license may be issued as a supplementary license to a caterer that holds a quota retail package license, quota retail drink license, NQ2 license, or a limited restaurant license. No primary caterer's license shall be issued to any premises operating as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time alcoholic beverages are not being used in conjunction with a catered function.

Section 2.15: The caterer's license shall authorize the caterer to purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, KRS 243.280, and KRS 244.310. The caterer's license authorizes the licensee to transport, sell, serve, and deliver malt beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and malt beverages for a customer and his or her guests, if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and malt beverages. The caterer's license shall authorize the caterer to transport, sell, serve, and deliver distilled spirits and Wine by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and his or her guests, if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages.

Section 2.16: NON-QUOTA RETAIL MALT BEVERAGE PACKAGE LICENSE. Non-quota retail malt beverage package license may be issued to a qualifying establishment. The non-quota retail malt beverage package license authorizes the licensee to sell malt beverages at retail by the package from the licensed premises only, for consumption off the licensed premises only, and the licensee shall only purchase malt beverages from a distributor.

Section 2.17: The non-quota retail malt beverage package license shall not be issued to sell malt beverages at retail from any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted unless there is maintained in inventory on the premises for sale at retail not less than five thousand dollars (\$5,000.00) of food, groceries, and related products valued at cost. For purposes of this section, the terms "food and groceries" means any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption as well as seeds and plants to grow food for personal consumption. The provisions of this section shall not apply to any licensed premise which sells no fuel other than marine fuel.

Section 2.18: LIMITED RESTAURANT LICENSE. The limited restaurant license may be issued to a qualifying establishment. The limited restaurant license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits, wine, and malt beverages only from licensed wholesalers or distributors. The limited restaurant license shall not authorize the licensee to sell distilled spirits, wine, or malt beverages by the package.

Section 2.19: The holder of a limited restaurant license shall maintain at least seventy percent (70%) of its gross income from the sale of food and maintain the minimum applicable seating requirement required for the type of limited restaurant license. The holder of a limited restaurant license shall only sell distilled spirits, wine, and malt beverages incidental to the sale of a meal. The holder of a limited restaurant license shall not have an open bar and shall not sell distilled spirits, wine or malt beverages to any person who has not purchased or does not purchase a meal. For purposes of this section, distilled spirits, wine, and malt beverages shall be deemed to be purchased in conjunction with a meal if the distilled spirits, wine, and malt beverages are served after the meal is ordered and no more than one-half (1/2) hour after the meal is completed.

Section 2.20: EXPIRATION OF LICENSE; PRORATION OF FEES. All City licenses, except temporary licenses shall begin on June 1 of any year and shall expire on May 31 of the following year except for licenses issued prior to May 30, 2014, as the same shall begin on date of issue and expire on May 31, 2014.

Section 2.21: Any license issued after December 31 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period; however, the cost of any license shall not be less than one-half (1/2) the amount of the full fee for an annual license of that type.

Section 2.22: PAYMENT OF LICENSE FEES; DELINQUENCIES. No licensee shall enter into or begin operating any business for which a license is required by this Ordinance until the license fee has been paid in full. The fee for renewal of any license shall be paid with the renewal application. Failure to pay any license fee within ten (10) days after it becomes due shall result in a penalty equal to ten percent (10%) of the license fee. Any licensee failing to pay the fees, including penalties, within ten (10) days after such fees are due may be subject to revocation of the license and to other penalties as provided in this Ordinance.

Section 2.23: REFUND OF FEES. Should any licensee be prohibited from conducting the licensed business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth with reference to alcoholic beverages or other cause outside the licensee's control, then the City shall refund to licensee the proportionate part of the license fee for the period during which the licensee is prevented from carrying on said business, if the licensee provides sufficient proof to the Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee, or an agent or employee of the licensee. In the event that a violation of state law, regulation, or this Ordinance results in the suspension or revocation of the license, the City shall not be required to refund any portion of the license fee.

Section 2.24: REGULATORY LICENSE FEES PURSUANT TO KRS 243.075(1). Pursuant to KRS 243.056(1), there is hereby imposed a regulatory license fee upon the gross receipts of each establishment licensed to sell alcoholic beverages. The regulatory license fee shall be four percent (4%) of gross sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and Wine, the regulatory license fee shall be six percent (6%) of gross sales of the same. The regulatory license fee shall be six percent (6%) on gross sales of package malt beverages. The regulatory license fees imposed under this section are reasonably estimated to fully reimburse the City estimated costs of additional policing, regulatory, and administrative expenses related to the sale of alcoholic beverages. The City Council shall adopt at the budget adoption for each subsequent fiscal year, such annual rates for

regulatory license fees as shall be reasonably estimated to ensure full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expense related to the sale of alcoholic beverages. Should the City fail to address the regulatory license fee in any budget, then the regulatory license fee shall remain at the level at which it was last fixed until such time as the City Council shall adjust the fee. Regulatory license fees under this section shall be in addition to any other taxes, fees, or licenses permitted by law, except that a credit against payment of a regulatory license fee shall be allowed in an amount equal to any licenses or fees imposed by the City pursuant to KRS 243.070. The City Clerk shall immediately notify the ABC Board of the amount of license fees fixed under this section. g

Section 2.25: PAYMENT OF REGULATORY FEES Payment of license fees and regulatory fees shall be remitted to the City Clerk. Regulatory fees imposed in accordance with KRS 243.075(l) and pursuant to Section 2.24 of this Ordinance shall be used for the purpose of fully reimbursing the City for the estimated cost of any additional policing, regulatory or administrative expense related to the sale of alcoholic beverages in the City. All regulatory license fees shall be in addition to any other taxes, fees or licenses permitted by law, except that a credit against regulatory license fees in the City shall be allowed in an amount equal to any license fee imposed by the City pursuant to KRS 243.070. Payment of regulatory license fees are due monthly and shall be paid no later than ~~by the end of the month immediately following each calendar quarter~~ the fifteenth (15th) of the following month. Failure to pay such ~~quarterly~~ monthly remittance by the fifteenth (15th) within ~~ten (10) days of the due date~~ constitutes a violation and will subject the licensee to suspension or revocation. The penalty for failure to pay ~~quarterly~~ monthly remittance by the due date is five percent (5%) of the tax for each ~~ninety (90)~~ thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the fee; provided, however, that in no case shall the penalty be less than ten dollars (\$10.00). Interest at the rate of eight percent (8%) per annum will apply to any late payment.

ARTICLE III. CITY ALCOHOL BEVERAGE CONTROL ADMINISTRATOR; APPEALS

Section 3.1: The office of City Alcoholic Beverage Control Administrator (the “Administrator”) is hereby created and established.

Section 3.2: The functions of the Administrator shall be the same with respect to City licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (the "ABC Board") with respect to state licenses and regulations, except that no amendment to these regulations proposed by the Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board.

Section 3.3: No regulation of the Administrator shall become effective until the City Council has first appropriately approved it.

Section 3.4: No person shall be an Administrator, an Investigator or an employee of the city under the supervision of the administrator who would be disqualified to be a member of the ABC board under KRS 241.100.

Section 3.5: The Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.

Section 3.6: The Administrator, and any Administrator's investigators, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant as otherwise in accordance with law.

Section 3.7: Should the Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, limited liability company, or other business organization, has a criminal record, he shall have the authority to require such person to appear in person at the Olive Hill, Kentucky Police Department for the purpose of having his or her fingerprints taken.

Section 3.8: The Administrator, before entering upon his or her duties as such, shall take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000.00). The Administrator may require any employee under the Administrator's supervision to execute a similar bond in such penal sum as the Administrator deems necessary.

Section 3.9: APPEALS. Appeals from order(s) of the Administrator may be taken to the state ABC Board by filing with the ABC Board, within thirty (30) days from the entry of an order of the Administrator, a certified copy of the order(s) from which an appeal is taken.

Section 3.10: The ABC Board shall hear all matters as an original proceeding. Appeals from order(s) of the Administrator shall be governed by KRS Chapter 13B.

Section 3.11: When any decision of the Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the City, and the ABC Board shall have made a decision regarding such appeal or protested application, the Administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by the final order of the ABC Board. As provided by law, and as used herein, no order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A "final order" of the ABC Board is the order entered by said Board, unless an appeal is taken from the Board's order, in which case the "final order" is the order entered by the Board upon direction from the reviewing court of last resort in the final order of said reviewing court.

ARTICLE IV. APPLICATION FOR LICENSE; MAINTENANCE OF LICENSE

Section 4.1: ADVERTISEMENT. Each person and each corporation, partnership or any other entity, except an applicant for the same license for the same premises shall, before applying for a license under KRS 243.030, KRS 243.040, and this Ordinance, advertise by publication under KRS 424.130(1)(b), his or her intent to apply for a license.

Section 4.2: The advertisement or notice referred to in Section 4.1 of this Ordinance shall conform in all material respects to the requirements set out in this section. The notice shall state:

- (1) The name and address of the applicant, if the applicant is an individual;
- (2) The name and address of each partner and the name of the business and its address, if the applicant is a partnership;
- (3) The name and address of each principal officer and director and the name and business address of the corporation, if the applicant is a corporation;
- (4) The specific location of the premises for which the license is sought; and
- (5) The type of license being requested.

The notice also shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing the Department of Alcoholic Beverage Control, 1003 Twilight Trail, Suite A-2, Frankfort, Kentucky, 40601, within thirty (30) days of the date of legal publication."

Section 4.3: The applicant shall attach to the license application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

Section 4.4: APPLICATION. Every application for a license under KRS 243.020 to KRS 243.670 and this Ordinance shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as required by the Kentucky Revised Statutes, the ABC Board, and the City.

Section 4.5: In addition to other information as the ABC Board may by administrative regulation require, every application for a license under KRS 243.020 to KRS 243.670 and this Ordinance shall contain the following information, given under oath:

(a) The name, age, social security number, address, residence, and citizenship of each applicant;

(b) If the applicant is a partnership, the name, age, social security number, address, residence, and citizenship of each partner and the name and address of the partnership;

(c) The name, age, social security number, address, residence, and citizenship of each person interested in the business for which the license is sought, together with the nature of that interest, and, if the applicant is a corporation, limited partnership, or limited liability company, the name, age, social security number, address, and residence of each officer, director, member, partner, and managerial employee and the citizenship of each, and the state under the laws of which the corporate or limited liability company applicant is either incorporated or organized;

(e) The premises to be licensed, stating the street and number, if the premises has a street number, and otherwise such a description that will reasonably indicate the location of the premises;

(f) A statement that neither the applicant nor any other person referred to in this section has been convicted of; any misdemeanor directly or indirectly attributable to alcoholic beverages; any violation of KRS 218A.050, 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, or 218A.130 within the two (2) years immediately preceding the application; any felony, within five (5) years from the later of the date of parole or the date of conviction; or providing false information to the Commonwealth of Kentucky, Department of Alcoholic Beverage Control preceding the application; and that the applicant or any other person referred to in this section has not had any license that has been issued to the applicant under any alcoholic beverage statute revoked for cause within two (2) years prior to the date of the application;

(g) A statement whether the applicant or any other person referred to in this section has any interest in any license or limited liability company, corporation, partnership or other business organization holding a license in any other state or province;

(h) A statement whether the applicant or any other person referred to in this section has any interest in any other license or limited liability company, corporation, partnership or other business organization holding a license under this Ordinance; and

(i) A statement that the applicant will in good faith abide by every state and local statute, regulation, and ordinance relating to the manufacture, sale, use of, and trafficking in alcoholic beverages.

Section 4.6: A nonrefundable application fee of Fifty Dollars (\$50.00) shall be paid with the filing of the application for a City license. If the license is granted, the application fee shall be credited against the initial license fee.

Section 4.7: All licenses issued by the City under this Ordinance shall require the approval of the Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board and the City, as amended and supplemented from time to time.

Section 4.8: Each application shall be accompanied by a certified check, cash or a postal or express money order for the amount of the license fee, less the \$50.00 application fee.

Section 4.9: In addition to the information specified in section 4.5 of this Ordinance, the Administrator may require such other information as the Administrator may in his discretion deem desirable, reasonable or appropriate to the consideration of the application. The applicant shall file with the application responses to any additional questions as may be posed or prescribed by the Administrator.

Section 4.10: OTHER CONDITIONS. In addition to any other inquiries, conditions or considerations required or permitted by law:

(1) Each location from which each applicant seeks to manufacture, traffic, or sell alcoholic beverages shall comply with applicable zoning laws, regulations and restrictions;

(2) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of such information to the Administrator; and

(3) No license to sell alcoholic beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of issuing the license,

nor shall any license be granted or renewed to sell upon any premises or property, owned or occupied by the licensee upon which there are any delinquent taxes or fees due the City. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic beverages shall be subject to revocation or suspension.

Section 4.11: No person, whether an applicant for a license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the Administrator, or any member of his or her staff, or any state ABC administrator or staff in any matter in which an application or proposed application for license, or procedure for revocation or suspension is pending before such officer. This section is not intended to stifle expressions of opinion; however, it is intended to make clear that the ABC Administrators are public officials charged with the administration and enforcement of the law, both local and state. Any person applying for a license, or contesting the revocation or suspension of a license, who engages in attempted bribes, threats, attempted undue influence or intimidation of a City or state ABC Administrator or staff shall be disqualified from receiving or retaining a license, in addition to other penalties as provided by law. The procedures for appeals shall apply to disqualifications, revocations or suspensions under this section. This section shall not be interpreted to prohibit monetary settlements in lieu of revocation or suspension of any license after a final order or revocation or suspension, where the ordinance and applicable statutes allow for such payments in settlement.

Section 4.12: No person shall become a licensee under KRS 243.020 to KRS 243.670 or this Ordinance, if he or she:

(1) Has been convicted of any felony until five (5) years have passed from the date of conviction, release from custody or incarceration, parole, or termination of probation, whichever is later;

(2) Has been convicted of any misdemeanor described under KRS 218A.050, 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, or 218A.130 within two (2) years immediately preceding the application;

(3) Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages within two (2) years immediately preceding the application;

(4) Is under the age of twenty-one (21) years;

(5) Has had any license issued which relates to the manufacture, distribution, sale or transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any statute or regulation relating to the manufacture, distribution, sale or transportation of alcoholic beverages, until the expiration of two (2) years from the date of the revocation or conviction; or

(6) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one (1) year before the date on which his or her application for a license is made. This subsection shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state, or to persons licensed on March 7, 1938.

Section 4.13: A partnership, limited partnership, limited liability company, or corporation shall not be licensed if:

(a) Any stockholder of a private corporation, stockholder of a public corporation holding ten percent (10%) or more of issued stock, partner, limited partner or member or any director, principal officer, or manager of the same that does not qualify under Section 4.12 of this Ordinance; or

(b) It has had any license relating to the manufacture, sale, or transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any statute relating to the manufacture, sale, or transportation of alcoholic beverages, until the expiration of two (2) years from the date of the revocation or conviction; or

(c) If any member of the partnership or any director, manager, or principal officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of the later of two (2) years from the date of the revocation or two (2) years from the date of conviction.

Section 4.14: FORM OF LICENSE. All City licenses shall be in such form as may be prescribed by the City Council and shall contain:

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of the license;
- (4) A description by street and number, or otherwise, of the licensed premises;

(5) The name and address of the owner of the building in which the licensed premises are located;

(6) The expiration date of the license;

(7) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

Section 4.15: CHANGE OF INFORMATION. If, after a license has been issued, there is a change in any fact required to be set forth in the application, a verified amendment, in writing, giving notice of the change shall be filed with the Administrator within ten (10) days of the change.

Section 4.16: As licenses issued by the City may be in the name of a partnership, a limited liability company, a corporation, or other business organization, it is necessary that ownership changes in such organizations be reported to the Administrator. The Administrator can, therefore, investigate the person or entity to which ownership or management is transferred in order to ascertain whether that person or entity is precluded by statute, regulation or this Ordinance from holding an interest in an alcoholic beverage license.

Section 4.17: With regard to any partnership, limited partnership, corporation, limited liability company, or other business organization as used herein, the word "change" is construed to include any change in any manager, partner, or limited liability company membership, any director or officer of the corporation, or change in ownership or stock whereby any person or entity secures ten percent (10%) or more of ownership interest or stock. Transfer of ten percent (10%) or more of the total ownership or stock shall require a new license. The following information will be required concerning any new stockholder, partner, member, new manager, director, officer, or person securing any interest in any alcoholic beverage license:

(a) Name and address;

(b) Nature of interest;

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

(d) Date of birth;

(e) Date residence was established in Kentucky, if a resident of Kentucky. If a resident of Grayson, Olive Hill indicate when residence was established;

(t) Whether or not he or she has any interest in any other license or in any limited liability company, corporation, partnership or other business organization holding a license;

(g) Extent of stock or company ownership; and

(h) Whether or not he or she has any interest in any license or in any limited liability company, corporation, partnership or other business organization holding a license in any other state or province.

Section 4.18: Information under Sections 4.15, 4.16 and 4.17 of this Ordinance shall be filed with the Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made ten (10) days of any change of required information.

Section 4.19: RENEWAL OF LICENSE. Every year each licensee shall renew its license. All renewal licenses must be on file with the Administrator no less than thirty (30) days prior to the expiration of the license for the preceding license period or the same shall be canceled except where the licensee is unable to continue in business at the same premises licensed during the preceding license period as a result of construction, act of God, casualty, death, the acquisition or threatened acquisition of the premises by any federal, state, city or other governmental agency possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; provided that said licensee shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth such facts, and the Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

Section 4.20: The renewal by the Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

Section 4.21: LOST OR DESTROYED LICENSE. When a license is lost or destroyed without fault on the part of the licensee, or his agent or employee, a duplicate in lieu of the original license shall be issued by the Administrator after the Administrator shall have been satisfied as to the facts; provided, however, that the applicant for said duplicate license shall pay a fee of ten dollars (\$10.00) for the duplicate license.

Section 4.22: REVOCATION OR SUSPENSION. Any license may be revoked or suspended by the Administrator if the licensee shall have violated any of the provisions of KRS

Chapters 241, 242, 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 or 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 or 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 241, 242, 243 and 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the Administrator in the exercise of his sound discretion deems sufficient.

Section 4.23: A license may be revoked for any of the reasons for which the Administrator would have been required to refuse a license if the facts had been known.

Section 4.24: In addition to the stated causes identified in this Ordinance, any license may be revoked or suspended for any of the following causes:

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

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

(3) If within a period of two (2) consecutive years, any licensee or any clerk, servant, agent or employee of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapter 241, 242, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale or transportation of alcoholic beverages or if within such period, any licensee or any clerk, servant, agent or employee of the licensee shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one (1) such felony and one (1) such misdemeanor.

(4) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statute, this Ordinance, or acts of Congress relative to fees or taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof.

(5) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or gift enterprise, or handbook or facility for betting or

transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, gift, enterprise, handbook or facility.

(6) Any event, occurrence, or other reason identified in KRS 243.500.

(7) Any, event, conduct or occurrence in violation of KRS 244.120.

Section 4.25: PROCEEDINGS FOR REVOCATION OR SUSPENSION OF LICENSE; NOTICE AND OPPORTUNITY TO CONTEST; APPEAL; EFFECT OF REVOCATION OR SUSPENSION. Upon the verified complaint of any person, or on the initiative of any law enforcement officer or of the Administrator, the Administrator may institute proceedings to revoke or suspend any license granted by the City. A license may be revoked or suspended only after the licensee shall have been given written notice, by certified or registered mail, of the proposed revocation, including notice of the reasons for such proposed action. The licensee shall be given an opportunity to be heard in opposition to the proposed revocation or suspension. The notice of proposed action shall advise the licensee of the date, time and place of the hearing. Notice shall be sufficient if mailed to the licensee at the address shown in the last application for a license or in the last statement supplemental to or in amendment of the application, whether or not the mailing is receipted for or claimed.

Section 4.26: The specific procedures to be followed in hearings on actions for revocation or suspension shall be prescribed by the City Council by municipal order. Such order shall be maintained on file in the office of the Administrator and a copy furnished with any notice of proposed revocation or suspension sent to a licensee. If the City Council shall fail to adopt such municipal order, the procedures shall be those set out in the Kentucky Administrative Procedure Act (KRS Chapter 13B).

Section 4.27: A decision of the Administrator revoking or suspending a license may be appealed as provided in KRS 241.200 and KRS 243.550.

Section 4.28: Within three (3) days after any order of revocation or suspension of a license becomes final; notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his license to the Administrator. If the revoked or suspended license is not forthwith

surrendered by the licensee, the Chief of Police at the request of the Administrator shall immediately cause one of his officers to take physical possession of the license and return it to the Administrator.

Section 4.29: Appeal from the decision of the Administrator revoking or suspending a license shall be to the ABC Board. The timely filing of an appeal shall stay further proceedings for revocation.

Section 4.30: If a license is revoked or suspended by an order of the Administrator, and the decision is not appealed, the licensee shall at once suspend all operations authorized under his license. Upon the entry of a final order of the ABC Board sustaining or ordering revocation or suspension on appeal, the licensee shall at once suspend all operations authorized under his license.

Section 4.31: TRANSFER OR ASSIGNMENT. No license issued under this Ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the Administrator and not then until a payment of One Hundred Dollars (\$100.00) shall be made to the City Clerk.

Section 4.32: REFUSAL OF LICENSE; GUIDELINES FOR APPROVAL OF QUOTA LICENSES. The Administrator may refuse to issue or renew a license for any of the following reasons:

(1) Causes for refusal to issue or renew a license and for suspension or revocation of a City license shall be the same as provided for regarding alcohol beverage licensing, sales or the administration thereof.

(2) If the applicant has done any act for which suspension or revocation of any alcohol beverage license would be authorized; or

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

Section 4.33: In the case of quota licenses, before approving an application, the Administrator is hereby directed to consider, in addition to the factors set out in KRS 243.450, KRS 243.490 and KRS 243.500, and any other factors the Administrator determines in his or her discretion to be reasonable and pertinent to the license application, the following criteria:

(1) Ownership: The City places great value on business owners who are invested in the community.

(2) Economic Impact: The City desires businesses which make the most positive impact on the community, in number of jobs, payroll, property investment and revenues to the City.

(3) Site of Business: The City is interested in serving all geographic areas of the City. Therefore, the City does not wish to cluster all licensed ABC outlets in one area.

(4) Aesthetics: The City is committed to protecting the character and beauty of our community.

(5) Capital: The City values businesses that demonstrate their ability to financially support and sustain their viability.

(6) Public Support of Licensed Business in the Area: The City intends that public sentiment and safety be considered in deciding upon the approval of retail liquor sales licenses in any area of the City.

Section 4.34: An applicant who has been refused a license by the Administrator may appeal the refusal to the ABC Board pursuant to KRS 241.200.

Section 4.35: REVIEW OF LICENSE; BOOKS, RECORDS AND REPORTS. Applicants to whom a license is issued pursuant to this Ordinance shall provide periodic information demonstrating compliance with the conditions of any license, such as, but not limited to, the continuing requirement that a minimum percentage of the applicants business income is earned from the sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. The City shall provide the form schedule to the licensee. The licensee's acceptance of a license to manufacture or traffic in alcoholic beverages shall constitute consent to the filing of the quarterly report. In the case of caterer filing, the quarterly report shall identify each catered event by type of event, date and address of the event, and shall provide a per event breakdown of sales and the ratio of food sales to alcohol sales during the reporting period. This requirement for filing of reports notwithstanding, the City may at any time come upon the premises of any licensee and examine the books and records to determine whether the licensee is in compliance with all parts of this Ordinance, state law and regulation. In the event the conditions of any license requirement are not met during any particular quarter, the Administrator shall have discretion in determining whether suspension or revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the

licensee, the Administrator may apply an accounting period of at least one (1) year in determining whether or not the food sale percentage requirement has been met.

Section 4.36: Every licensee subject to this Ordinance shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the Administrator and such City employees who may assist the Administrator in his or her review.

Section 4.37: For the purpose of assisting the Administrator in enforcement of this Ordinance, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the Administrator. Copies of any and all reports and correspondences to the ABC Board required by statute or regulation shall also be furnished to the Administrator.

Section 4.38: DORMANCY. It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.

(1) Any license under which no business is transacted during a period of ninety (90) days shall be deemed inactive, and, unless the conditions set forth in paragraph (2) below are proved to the satisfaction of the Administrator, the license shall be surrendered to the Administrator. If the license is not voluntarily surrendered, it shall be revoked by the Administrator.

(2) A license may not be considered dormant and declared null and void under this section if any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, City or other governmental agency under power of eminent domain, whether acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew an existing lease; provided, however that prior to the expiration of ninety (90) days of inactivity, such licensee shall furnish to the Administrator a verified statement setting forth the fact that the licensee is unable to continue in business, for any of the specific reasons set forth herein, and the Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, in addition, however, that no

such license shall be considered valid unless business is conducted there under within twelve (12) months from the date of notice to the Administrator. Such extension may not extend beyond the renewal date but may be for such times as the Administrator deems appropriate in the exercise of his sound discretion.

ARTICLE V. HOURS FOR SALE AND DELIVERY

Section 5.1: Each licensee holding a City license to sell or dispense package distilled spirits, malt beverages, or wine may sell or dispense package distilled spirits, malt beverages, or wine between the hours of 6:00 a.m. and 12:00-midnight, Monday through Saturday.

Section 5.2: Each licensee holding a City license to sell or dispense alcoholic beverages by the drink may sell or dispense alcoholic beverages by the drink between the hours of 11:00 a.m. and 12:00-midnight, Monday through Saturday.

Section 5.3: Hotels, motels, inns, or restaurants holding a Special Sunday Retail Drink License may sell alcoholic beverages on Sundays between the hours of 1:00 p.m. and 12:00-midnight.

ARTICLE VI. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

Section 6.1: No licensee shall advertise any malt beverage by trade name, trademark or in any other manner within one hundred (100) feet of the property line of any school or church. The distance shall be by straight line.

Section 6.2: No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on licensed premises.

Section 6.3: It shall be unlawful for any licensee under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Carter County as it is now or may hereafter be operated. In addition to other penalties provided for any violation of this section, the Chief of Police, the Administrator or his designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

Section 6.4: The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise.

Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

Section 6.5: It shall be unlawful for any licensee under this Ordinance who sells alcoholic beverages of any kind to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages nor shall any licensee give away any alcoholic beverage in any quantity for less than full monetary consideration.

Section 6.6: No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the licensed premises, nor shall any licensee sell alcoholic beverages to any person who is actually or apparently under the influence of alcoholic beverages, or known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period. No licensee shall permit any person who is actually or apparently under the influence of alcoholic beverages to remain on the licensed premises. As used herein, whether a person is actually or apparently under the influence of alcoholic beverages shall be determined by the licensee or server with specific reference to the principles and guidelines established in mandatory alcohol server training as to the signs of alcohol intoxication.

Section 6.7: The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age. The licensee shall check all identification to ascertain that every person attempting to purchase or consume alcoholic beverages is at least 21 years of age.

Section 6.8: The licensee shall display at all times in a prominent place a sign at least eight inches by eleven inches (8"x11") in size and in 30 point or larger type, which states as follows:

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

- 1. Enter licensed premises to buy, or have served to them, alcoholic beverages.*
- 2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.*
- 3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.*

Section 6.9: The licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room

where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

Section 6.10: The licensee shall post in a prominent place easily seen by patrons a printed sign at least eleven inches by fourteen inches (11"x14") in size, letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00) KRS 243895.

Section 6.11: No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

Section 6.12: No licensee shall knowingly employ in connection with his or her business any person who:

- (1) Has been convicted of any felony within the last two (2) years; or
- (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years; or
- (3) Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute; or
- (4) Within two (2) years prior to the date of his or her employment, has had any City license under this Ordinance revoked for cause.

Section 6.13: Licensees shall not offer reduced drink specials (e. g., two-for-one, happy hours) after the hour of 11:00 p.m. until closing or within one hour of closing. Violation of this section shall subject the licensee to penalties provided in this Ordinance and shall be cause for revocation of license.

Section 6.14: All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the

premises. Violation of this section shall subject the licensee to penalties provided in this Ordinance and shall be cause for revocation of license.

Section 6.15: No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premises. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises. No licensee shall sponsor or permit wet t-shirt or wet clothing contests, lingerie fashion shows, mud wrestling, Jell-O wrestling or similar activities, nor shall any licensee allow dancing with touching for compensation (including but not limited to wages, tips or gratuities), or any other service, display or contest requiring physical contact between patrons and/or patrons and employees on any licensed premises. No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premise in the City. Violation of this section shall subject the licensee to penalties provided in this Ordinance and shall be cause for revocation of license.

Section 6.16: No license shall be issued for any premises to operate a vehicle "drive-through" outlet for the sale of alcoholic beverages, nor shall any person or licensee operate or permit such a vehicle drive-through outlet. This prohibition shall not apply to a drive-up window at any premises licensed for retail package liquor, wine or malt beverage, including retail beer, where the primary sales area is arranged for and utilized by persons entering the premises on foot and manually carrying out the products purchased therein. Violation of this section shall subject the licensee to penalties provided in this Ordinance and shall be cause for revocation of license.

Section 6.17: No licensee, or the agent, servant, or employee of any licensee shall cause, suffer, or permit the licensed premises to be disorderly as prohibited by KRS 243.120. For purposes of this section, 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. Violation of this section shall subject the licensee to penalties provided in this Ordinance and shall be cause for revocation of license. .

ARTICLE VII. POSSESSION BY MINORS PROHIBITED; NO PERSON SHALL AID POSSESSION BY MINORS

Section 7.1: Except as specifically authorized under KRS 241 through 244, no person under the age of 21 may possess alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages. .

Section 7.2: As provided in KRS 244.085, no person under the age of 21, except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. For purposes of this prohibition, "premises" specifically encompasses the entire lot upon which a licensed establishment is situated, including any drive-up window. The prohibition contained in this paragraph shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, or similar establishment.

Section 7.3: No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use, or consume alcoholic beverages. All licensees shall require proof of age of all persons attempting to purchase alcoholic beverages or consume alcoholic beverages on the licensee's premises.

Section 7.4: No person being the owner or occupant, or otherwise in possession or control of any property located within the City, shall knowingly allow any minor to remain on such property while in possession of, using, or consuming alcoholic beverages.

Section 7.5: It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individual's possession, consumption or use of alcoholic beverages, or that the minor individual's possession of alcoholic beverages was exempted by KRS 244.087. `

ARTICLE VIII. CONSUMPTION ON LICENSED PACKAGE PREMISES PROHIBITED; EXCEPTIONS; CONGREGATING ON CERTAIN ABC LICENSED PREMISES AND VACANT PREMISES PROHIBIIED

Section 8.1: No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises unless said person or entity shall also have a drink license conferring the privilege of consumption on the premises or shall have a retail malt beverage license which permits on premises consumption. Any licensee who intends to permit on premises consumption shall, prior to permitting on premises consumption, notify the Administrator in writing of this decision. A licensee who does not permit on premises consumption shall post a prominent notice on the premises stating that consumption of alcoholic beverages on the premises is prohibited. This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of KRS Chapter 243, or where sampling is permitted for a retail distilled spirits and wine license under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:03 0.

Section 8.2: No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.

Section 8.3: No person or entity being the owner or otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.

Section 8.4: As used in this section, the term:

(a) "Habitual" shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;

(c) "Package liquor store" shall mean a retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes;

(d) "Public nuisance" shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by or the health, safety and welfare of the public; and

(e) "Vacant property" shall mean a vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

ARTICLE IX. MALT BEVERAGE KEG REGISTRATION

Section 9.1: As used in this section, "keg" is defined as a container designed and capable of holding six (6) or more gallons of malt beverage.

Section 9.2: All retail licensees operating within the City who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the City to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg, stating the following:

- (1) The purchaser is of legal age to purchase, possess and use the malt beverage;
- (2) The purchaser is not purchasing the keg for resale and will not allow any person under the age of twenty-one (21) to consume the malt beverage;
- (3) The purchaser will not remove, obliterate or allow to be removed or obliterated the identification tag;
- (4) The purchaser will state the property address where the keg will be consumed and physically located; and
- (5) The purchaser is aware of his/her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

Section 9.3: The licensee under this section shall obtain the name, address and telephone number of the purchaser and shall require the purchaser to produce a valid driver's license number and, if that is not available, to produce at least one other valid form of identification.

Section 9.4: The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.

Section 9.5: The keg registration form shall be forwarded to the Administrator within five (5) working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.

Section 9.6: The Administrator is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

Section 9.7: All licensees that sell or offer kegs for sale shall post on the licensed premises a notice provided by the City concerning the provisions of this section.

Section 9.8: It shall be unlawful for any licensee to sell or offer kegs for sale without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have the declaration form

visible and readily accessible from the location of the keg. The penalties for violation of this section shall be the penalties set out in this Ordinance which authorize license revocation or suspension. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

ARTICLE X. IMMUNITY FOR PROSECUTION FOR ALCOHOL RELATED OFFENSES

Section 10.1: A person shall be immune from prosecution for the criminal offenses identified in subsection 4 (a) through (d) of this section if:

- (a) A law enforcement officer has contact with the person because the person:
 - 1. Requests emergency medical assistance for himself or herself or another person;
 - 2. Acts in concert with another person who requests emergency medical assistance;or
 - 3. Appears to be in need of emergency medical assistance and is the individual for whom the request is made;
- (b) The request is made for an individual who reasonably appears to be in need of medical assistance due to alcohol consumption; and
- (c) The person described in paragraph (a) of this subsection, if physically capable:
 - 1. Provides his or her own full name if requested by emergency medical assistance personnel or law enforcement officers;
 - 2. Provides any other relevant information requested by the law enforcement officer that is known to such person;
 - 3. Remains with, or is, the individual who reasonably appears to be in need of medical assistance due to alcohol consumption until professional emergency medical assistance is provided; and
 - 4. Cooperates with emergency medical assistance personnel and law enforcement officers.

A person who meets the qualifications set forth in Subsection 10.1 of this Article shall be immune from criminal prosecution for the following offenses:

- (a) Alcohol intoxication under KRS 222.202(1);
- (b) Drinking alcoholic beverages in a public place under KRS 222.202(2);

- (c) Offenses related to possession of alcoholic beverages by a minor under twenty-one (21) years of age under KRS 244.085; and
- (d) Providing alcohol to minors under twenty-one (21) years of age or assisting minors under twenty-one (21) years of age to purchase alcohol under KRS 244.085 or KRS 530.070

ARTICLE XI. ENFORCEMENT. City police officers and the Administrator are authorized to enforce this Ordinance for alleged violations.

ARTICLE XII. PENALTIES.

Section 12.1: In addition to any criminal prosecution instituted in Carter District Court against an alleged Violator, the Administrator may assess the fines and penalties authorized in KRS 243.480, including the per diem assessments for ongoing violations. Should the fines or penalties assessed by the state change under KRS 243.480, then the fines or penalties under this Ordinance shall be adjusted accordingly to mirror the fines or penalties imposed by state law. Payment of all fines shall be made to the Olive Hill City Clerk.

Section 12.2: Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned in the county jail for not more than six (6) months, or both. The penalties provided for in this section shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

ARTICLE XIII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

Section 13.1: All persons employed in the selling and serving of alcoholic beverages shall participate in and complete the STAR (Server Training in Alcohol Regulations) beverage service training program.

Section 13.2: All persons required to complete training under this Ordinance shall complete that training within ninety (90) days of the date on which the person first becomes

subject to the training requirement. When a new business is licensed to serve alcoholic beverages all employees must be trained prior to the opening of the business.

Section 13.3: Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the Administrator a record or file on each employee that shall contain the pertinent training information. Each premises licensed under this Ordinance must at all times when alcoholic beverages are being served have at least one (1) person currently certified in responsible beverage service training on duty.

Section 13.4: All persons completing the training required by this section shall be re-certified in responsible beverage service training from a program approved by the City not less than once every three years thereafter.

XIV. SIGNS AND ADVERTISING: ADVERTISING ON MUNICIPALLY OWNED PROPERTY PROHIBITED; CERTAIN OTHER ADVERTISING PROHIBITED

Section 14.1: All signage shall be in compliance with any and all existing rules and regulations of the City and the applicable zoning ordinances and restrictions.

Section 14.2: It shall be unlawful for a licensee under this Ordinance to distribute or cause to be distributed any handbills, circulars, or cards as a medium of advertising alcoholic beverages.

Section 14.3: Any advertising by any licensee under this Ordinance shall be in compliance with KRS 244.130.

Section 14.4: No licensee shall advertise alcoholic beverages on any municipally owned property.

Section 14.5: No licensee shall publish or display advertising that is false or misleading, nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any known athlete is depicted or referred to, nor shall any licensee publish or display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or the use of terms such as "high test", "high proof" or "extra strong") or depicting activities that tend to encourage excessive consumption.

ARTICLE XV. IMPLEMENTATION OF ORDINANCE PROVISIONS. From time-to-time, the Olive Hill City Council may by municipal order promulgate such rules and regulations and may publish and utilize such forms and other documents as, in its discretion, may be necessary for the proper implementation of this Ordinance.

ARTICLE XVI. SEVERABILITY. If any section, subsection, paragraph, sentence, clause, phrase, or a portion of this Ordinance is declared illegal or unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions hereof.

ARTICLE XVII. EFFECTIVE DATE. This Ordinance shall be effective upon its adoption and publication in accordance with law.

First reading and approval this _____ day of _____, 2014.

Second reading, approval and adoption this _____ day of _____, 2014

KENNY FANKELL, MAYOR
CITY OF OLIVE HILL

ATTEST:

ANGELA OWENS, CITY CLERK