

ORDINANCE NUMBER 13-0408

§ 13-0408 ALCOHOL BEVERAGE CONTROL ORDINANCE

BE IT ORDAINED that the City of Sturgis, Kentucky is desirous of amending ordinance 13-0408 only as it relates to the aforementioned ordinance being solely applicable to precinct two (2). As such, the preamble to said ordinance is amended as follows:

AN ORDINANCE TO THE CITY OF STURGIS, KENTUCKY, ADOPTING IN THE FOLLOWING SET OF REGULATIONS AND REQUIRMENTS FOR ALCOHOL BEVERAGE CONTROL, HERINAFTER TO BE KNOWN AS THE CITY OF STURGIS'S "**ALCOHOLIC BEVERAGE CONTROL ORDINANCE**"; AND FURTHER ADOPTING ALL APPLICABLE AND REQUIRED KRS, INCLUDING BUT NOT LIMITED TO, KRS CHAPTERS 241 THROUGH 244; AND

WHEREAS, THE CITY OF STURGIS, BY AND THROUGH A MAJORITY OF REGISTERED VOTERS IN PRECINT(S) NUMBER TWO (2), ~~NUMBER THREE (3), AND NUMBER FOUR (4)~~ NOW PERMIT§ THE PRESENCE OF ALCOHOL, MANUFACTURING, AND SALES WITHIN THE CORPORATE LIMITS OF PRECINT(S) TWO (2), ~~THREE (3), AND FOUR (4)~~ OF THE CITY OF STURGIS SO LONG AS SUCH IS DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAW; AND

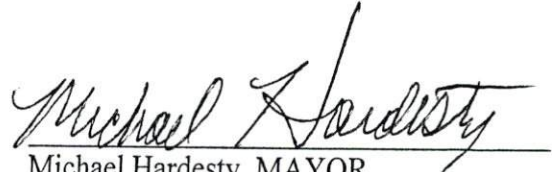
WHEREAS, THE CITY OF STURGIS THEREFORE MUST ESTABLISH UNIFORM REGULATIONS AND REQUIREMENTS FOR THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES, MANUFACTURE, AND SALES PURSUANT TO KRS CHAPTERS 241 THROUGH 244; AND

WHEREAS, SALES AND ACTIVITES AS APPROVED IN THE RECENT LOCATION ELECTION 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; AND

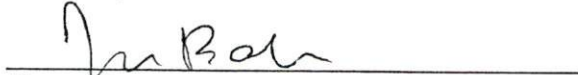
WHEREAS, THE CITY OF STURGIS, IN THE ENACTMENT OF THIS ORDINANCE INTENDS THAT THE ENACTED ORDINANCE ALLOWING EXPANDED SALES PROTECT AND BENEFIT THE COMMUNITY BY PROMOTING ECONOMIC HEALTH WITHIN THE COMMUNITY; CAUSING THE REVENUE STREAMS CREATED BY SALES AND ACTIVITES TO HAVE THE MAXIMUM IMPACT ON THE ECONOMIC HEALT H OF THE CITY OF STURGIS AND ITS BUSINESS OWNERS AND CITIZENS; AND PROVIDING EXPANDED ENTERTAINMENT AND CULTURAL VENUES FOR LOCAL CITIZENS AND CREATING INCREASED TOURISM TRAFFIC AND ACTIVITIES.


NOW THEREFORE, BE IT ORDAINED BY THE CITY OF STURGIS, KENTUCKY, THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

Except as expressly modified and amended herein, no other modifications or amendments to said ordinance have been made.


Michael Hardesty, MAYOR
CITY OF STURGIS

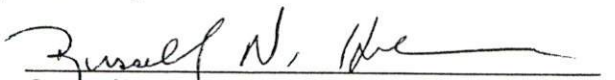

Councilperson


Councilperson


Councilperson


Councilperson


Councilperson


Councilperson

Date of First Reading: 9-24-15

Date of Second Reading: 10-5-15

Attest:


Cindy Carr, City Clerk

CITY OF STURGIS

ALCOHOL BEVERAGE CONTROL ORDINANCE

Ordinance 13-04-08

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AN ORDINANCE TO THE CITY OF STURGIS, KENTUCKY, ADOPTING IN THE FOLLOWING SET OF REGULATIONS AND REQUIRMENTS FOR ALCOHOL BEVERAGE CONTROL, HERINAFTER TO BE KNOWN AS THE CITY OF STURGIS'S "**ALCOHOLIC BEVERAGE CONTROL ORDINANCE**"; AND FURTHER ADOPTING ALL APPLICABLE AND REQUIRED KRS, INCLUDING BUT NOT LIMITED TO, KRS CHAPTERS 241 THROUGH 244; AND

WHEREAS, THE CITY OF STURGIS, BY AND THROUGH A MAJORITY OF REGISTERED VOTERS IN PRECINT NUMBER TWO (2), NOW PERMITS THE PRESENCE OF ALCOHOL, MANUFACTURING, AND SALES WITHIN THE CORPORATE LIMITS OF PRECINT TWO (2) OF THE CITY OF STURGIS SO LONG AS SUCH IS DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAW; AND

WHEREAS, THE CITY OF STURGIS THEREFORE MUST ESTABLISH UNIFORM REGULATIONS AND REQUIREMENTS FOR THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES, MANUFACTURE, AND SALES PURSUANT TO KRS CHAPTERS 241 THROUGH 244; AND

WHEREAS, SALES AND ACTIVITES AS APPROVED IN THE RECENT LOCATION ELECTION 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; AND

WHEREAS, THE CITY OF STURGIS, IN THE ENACTMENT OF THIS ORDINANCE INTENDS THAT THE ENACTED ORDINANCE ALLOWING EXPANDED SALES PROTECT AND BENEFIT THE COMMUNITY BY PROMOTING ECONOMIC HEALTH WITHIN THE COMMUNITY; CAUSING THE REVENUE STREAMS CREATED BY SALES AND ACTIVITES TO HAVE THE MAXIMUM IMPACT ON THE ECONOMIC HEALTH OF THE CITY OF STURGIS AND ITS BUSINESS OWNERS AND CITIZENS; AND PROVIDING EXPANDED ENTERTAINMENT AND CULTURAL VENUES FOR LOCAL CITIZENS AND CREATING INCREASED TOURISM TRAFFIC AND ACTIVITIES.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF STURGIS, KENTUCKY, THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

ARTICLE I. GENERAL

- A. This Ordinance shall be known as the "Alcoholic Beverage Control Ordinance" of the City of Sturgis, Kentucky (hereinafter referred to as the "City").

- B. The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS Ch. 241 through 244.
- C. The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control law (KRS Ch. 241 through 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.
- D. This Ordinance shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this chapter 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 of the city, or of any statutes of the state relating to violations pertaining to alcoholic beverages.
- E. The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Ch. 241 through 244) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

ARTICLE II. LICENSE REQUIREMENTS.

A. City License:

For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in KRS 243.070. The fee for each city license shall be as set out in the schedule set forth below.

(1) Distilled spirit licenses as set forth in KRS 243.030:

- (a) Distiller's license, per annum \$500.00
- (b) Rectifier's license, per annum \$3,000.00
- (c) Blender's license, per annum \$3,000.00
- (d) Wholesaler's distilled spirits and wine license, per annum \$3,000.00
- (e) Distilled spirits and wine retail package license, per annum:
 - 1. In counties containing cities of the first class or a consolidated local government \$1,200.00
 - 2. In counties containing cities of the second class \$1,000.00

- 3. In counties containing cities of the third class \$800.00
 - 4. In counties containing cities of the fourth class \$600.00
 - 5. In all other counties \$400.00
- (2) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
- (a) In counties containing cities of the first class or a consolidated local government \$1,600.00
 - (b) In counties containing cities of the second class \$1,000.00
 - (c) In counties containing cities of the third class \$800.00
 - (d) In counties containing cities of the fourth class \$400.00*
- (3) Distilled spirits and wine special temporary liquor license, per event:
- (a) In counties containing cities of the first class or a consolidated local government \$266.66
 - (b) In counties containing cities of the second class \$166.66
 - (c) In counties containing cities of the third class \$133.33
 - (d) In counties containing cities of the fourth class \$100.00
- (4) Special temporary wine license, per event \$50.00
- (5) Distilled spirits and wine special temporary auction license, per event \$200.00
- (6) Special private club license, per annum \$300.00
- (7) Distilled spirits and wine special Sunday retail drink license, per annum \$300.00
- (8) Extended hours supplemental license, per annum \$1,000.00*
- (9) Nonresident special agent or solicitor's license, per annum \$40.00
- (10) Restaurant wine license, per annum:
- (a) New applicants \$400.00*
 - (b) Applicants for renewal \$300.00*
- (11) Caterer's license, per annum \$500.00*
- (12) Riverboat license, per annum \$1,200.00

- (13) Horse race track license, per annum \$2,000.00
- (14) Convention center or convention hotel complex license, per annum \$2,000.00
- (15) Bottling house distilled spirits license or wine storage
license ,per annum \$1,000.00
- (16) Automobile race track license, per annum..... \$2,000.00
- (17) Souvenir retail liquor license, per annum \$1,000.00
- (18) Malt beverage licenses as follows:
- (a) Brewer's license, per annum \$500.00
- (b) Microbrewery license, per annum \$500.00
- (c) Malt beverage distributor's license, per annum \$400.00
- (d) Retail malt beverage license, per annum \$200.00
- (e) Special temporary retail malt beverage license, per event \$25.00
- (f) Malt beverage brew-on-premises license, per annum \$100.00
- (19) Limited restaurant license or limited golf course license, per annum
(includes distilled spirits, wine, and malt beverages), new applicants:
- (a) In counties containing cities of the first class or a consolidated local
government \$1,800.00
- (b) In counties containing cities of the second class \$1,200.00
- (c) In counties containing cities of the third class \$1,000.00
- (d) In counties containing cities of the fourth, fifth, or sixth class \$500.00*

*The associated amounts are below the statutory maximum.

B. Certain special licenses defined:

(1) Temporary licenses. A special temporary distilled spirits and wine license or a special temporary wine license may be issued only as set out in KRS. 243.260. This license shall authorize the licensee to exercise the privileges of the license for a specified and limited time, not to exceed thirty (30) days. In the case of a nonprofit organization holding a retail malt beverage license, such organization may be issued a distilled spirits and wine special temporary license or a special temporary wine license to sell distilled spirits and wine by the drink on the licensed premises, in conjunction with any public or private

event, for a specified and limited time, not to exceed ten (10) days. A malt beverage temporary license may be issued only as set out in KRS 243.290 and is subject to all conditions and regulations provided at the issuance of the license. For purposes of the issuance of Special Temporary wine and retail malt beverage licenses pursuant to 804 KAR 4:250, KRS 243.260 and 243.290, necessity shall limit applicants to: any regularly organized fair, exposition, racing association or nonprofit organization, political campaign function or any for-profit individual, corporation, or organization when used in conjunction with an organized charitable, civic, or community sponsored event.

(2) Private club license. A special private club license may be issued only as authorized in KRS 243.270 to a nonprofit social, fraternal, military, or political organization or club, which for more than one (1) year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded. The privileges of the license shall be exercised only on premises where the general public is excluded. This license shall authorize the licensee to exercise the privilege of a malt beverage or a distilled spirits and wine retail drink licensee, or both, at the designated premises if the general public is excluded.

(3) A restaurant wine license may be issued to an applicant who is an owner or lessee of a restaurant which receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of fifty (50) persons at tables. The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2). A restaurant wine license shall authorize a licensee to purchase, receive and sell wine at retail for consumption on the licensed premises. Such licensee shall purchase wine only from licensed wholesalers.

(4) Consumption of Drink on Premises: License Required:

(a) The City Council of the City, pursuant to KRS 242.185, has determined that economic hardship exists within the City, as is evidenced by its high rate of unemployment, slow rate of growth, loss due to plant closings, and a significant number of vacancies in the Central Business District. The City Council has further determined that the licensing authorization contained in subsections "B" and "C" of this Section could aid economic growth. Further, the City Council adopts this Ordinance, i.e. the "Alcoholic Beverage Control Ordinance of the City of Sturgis", as a comprehensive, regulatory ordinance covering, *inter alia*, the licensing and operation of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(b) The City shall have the power and authority to issue licenses authorizing hotels, motels, inns, or restaurants to sell alcoholic beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages if a malt beverage license is obtained. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons at tables, or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean in addition to having the minimum seating requirements set forth above restaurants which derive at least fifty percent (50%) of their gross revenue from the sale of food, this requirement is and shall be in

accord with KRS 242.1295. The fee for such a license shall be six hundred dollars (\$600.00) per annum. City ABC Administrator is authorized to issue any license permitted by KRS 242.070, and the activity thereby licensed is permitted in accordance with State law and City law.

(d) Unless a different license fee is provided for in this Ordinance, the City of Sturgis license fee for any license authorized by KRS 243.070 shall be the maximum license fee allowed to the City by KRS 243.070, as it may be amended from time to time.

(e) All regulations which may be issued to administer KRS 242.185, this section of this Ordinance, and any other provision of this Ordinance or State law, shall conform to the requirements of KRS 241.190.

(5) Special license required for Sunday sales. No licensee shall offer distilled spirits and wine for sale at any time between 12:00 midnight on Saturday and 7:00 a.m. on Monday unless the licensee shall have obtained a special license for Sunday sales.

(6) All restrictions and prohibitions applying to regular retail drink distilled spirits and wine licenses and retail malt beverage licenses shall apply to the special licenses, unless otherwise provided by law.

C. 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. Any licenses 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.

D. Payment of license fees; delinquency:

No licensee shall enter into or begin operating any business for which a license is required by this chapter 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.

E. Refund of fees:

(1) Should any licensee under this Ordinance 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 licensee's control, then the city shall refund to licensee the proportionate part of the license fee for the period during which licensee is prevented from carrying on said business if the licensee provides sufficient proof to the City ABC 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.

(2) In the event a violation of this Ordinance occurs that results in the suspension or revocation of the license, the city shall not be required to refund any portion of the license fee.

F. Regulatory license fee:

(1) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. As of the time of adoption of this Ordinance, the regulatory license fee shall be six percent (6%) 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 five percent (5%) of gross sales. The regulatory license fee shall be four percent (4%) on gross retail sales of package malt beverages. Thereafter, the City Council shall adopt at the budget adoption for each subsequent fiscal year, such annual rate for the regulatory license fee 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 in the city. 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.

(2) Payment of said regulatory fee shall be remitted to the City ABC Administrator, who shall transmit all fees to the City Clerk, or his or her designee, for deposit into the appropriate designated account. The City may use said fees as permitted by law, including but not limited to, any cost of additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the City. The regulatory license fee shall be in addition to any other fees or licenses permitted by law, except that a credit against a regulatory license fee 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 the regulatory license fee shall paperwork required by the ABC Administrator, which may include but is not limited to tax returns and financial statements. The required paperwork and payment are due no later than by the end of the month immediately following each calendar quarter.

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

(4) Penalty for failure to file a return and pay quarterly remittance by the due date is five percent (5%) of the regulatory fee for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the regulatory fee; provided, however, that in no case shall the penalty be less than ten dollars (\$10.00).

(5) Interest at the rate of eight percent (8%) per annum will apply to any late payments.

G. Disposition of fees and any other type of payment to the City:

The City ABC Administrator shall transmit all fees and any other types of payment made to the City, upon collection, to the City Clerk, or his designee, for deposit into the appropriate designated account.

ARTICLE III. CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

1. Alcoholic Beverage Control Administrator.

(a) Pursuant to KRS 241.160, there is hereby created the duties of the City of Sturgis Alcoholic Beverage Control Administrator.

(b) The Mayor may request that the City Council shall add the position of City ABC Administrator, as well as any other additional personnel to assist a City ABC Administrator, to the City's Pay and Classification Plan, including the number of positions and a salary range for each position.

(c) The functions of the City ABC Administrator shall be the same with respect to the city licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendment to this Ordinance may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No amended or additional regulation shall become effective until the City Council has first appropriately approved it by adopting an amendment to this Ordinance as required by law.

(d) To prevent potential conflicts of interests, no person shall be a City ABC Administrator, an investigator, or an employee of the city, under the supervision of the City ABC Administrator, who would be disqualified to be a member of the ABC Board under state law set forth in KRS 241.100 or other applicable statutes related to incompatibility of office(s).

(e) The City ABC Administrator shall have authority delegated by the Mayor, and as authorized under KRS Ch. 241 through 244. The City ABC Administrator, along with any designated ABC Administration investigator(s), who shall be assigned by the Mayor, or his designee, and also who shall be members of the Sturgis Police Department, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(f) Should the City ABC Administrator, or the designated ABC Administration investigator(s) 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, LLC or other business organization, has a criminal record, they shall have the authority to require such person to appear in person at the Sturgis Police Department for the purpose of having his or her fingerprints taken.

(g) The City ABC Administrator, before entering upon his or her duties, 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). Any employee delegated or assigned to the ABC Administration may also be asked to execute a similar bond in such penal sum as the City deems necessary unless said person is already covered under the City's active bonds as required under KRS in regards to officials and employees of the City.

2. Appeals.

(a) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the City ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

(b) When any decision of the City ABC 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 City ABC 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 AND MAINTENANCE OF LICENSE

1. Advertisement.

Before an application for a license shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in a newspaper meeting the requirements of KRS Ch. 424, including the following:

(a) The advertisement shall state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership of the LLC if the applicant is an LLC, as well as the name of the business and its address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the license is sought, and the type of license for which application is made.

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

2. Application fee.

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.

3. Form of application.

(a) All licenses granted under this chapter shall be approved by the City ABC 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 Kentucky ABC Board and/or the City of Sturgis, both of which may be amended and supplemented from time to time by each respective agency.

(b) The application 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 state ABC Board, and the City of Sturgis, including as follows:

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;

- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Sturgis resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or LLC, corporation, partnership or other business organization holding a license under this Ordinance;
- (7) Extent of stock or company ownership;
- (8) Whether or not he or she has any interest in any license or LLC, corporation, partnership or other business organization holding a license in any other state or province.

(c) 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 fifty dollars (\$50.00) application fee.

(d) In addition to the above specified information, the applicant shall file, with the application, responses to any additional questions as may be posed or prescribed by the City ABC Administrator. The City Council has adopted a statement of guidelines and priorities for the issuance of licenses within this Ordinance to determine the extent to which applications may further, or impede, the objectives of those guidelines. Therefore, in addition to the information contained in the application, the City ABC Administrator may require such other information as the Administrator may, in his or her discretion, deem desirable, reasonable, or appropriate to the consideration of the application.

4. Other conditions.

In addition to any other inquiries, conditions or considerations required or permitted by law:

- (a) The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by the City Building Inspector, and any and all other inspections required by the Kentucky Building Code or other applicable law;
- (b) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator; and
- (c) No license to sell alcoholic or malt beverages may be granted or renewed to any person who is delinquent in the payment of any property taxes, both real and personal, any other taxes due to the City, fees of any type, or charges due to any department of the city at the time of issuing the license, nor may any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any of the above delinquent payments due and owing to the City. Further, if a licensee becomes delinquent in the payment of any of the above at any time during the license period, the license to sell alcoholic or malt beverages may be subject to revocation or suspension.
- (d) No person, whether an applicant for license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the City ABC Administrator, or any member the City's 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 division 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 Ordinance. Nothing in this Ordinance shall be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after a final order or revocation or suspension, where the Ordinance and applicable statutes allow for such payments in settlement.

5. Form of license.

All city licenses shall be in such form as may be provided by the ABC Administrator, but at the least per state law shall contain:

- (a) The name and address of the licensee;
- (b) The number of the license;
- (c) The type of license;
- (d) A description by street and number, or otherwise, of the licensed premises;
- (e) The name and address of the owner of the building in which the licensed premises are located;
- (f) The expiration date of the license;
- (g) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

6. Change of information.

(a) If after a license to individuals or to a sole proprietor 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 City ABC Administrator within ten (10) days of the change.

(b) Since a number of licenses issued by the city are in the name of corporations or other business organizations, it is necessary that ownership changes in such organizations be reported to the City ABC Administrator. The City ABC Administrator can, therefore, investigate the person to whom the ownership or management is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(1) As used with regard to a partnership, corporation, LLC or other business organization herein, the word "change" is construed to include any change in managers, partners or LLC members, directors or officers of the corporation, or change in ownership or stock whereby any person secures ten percent (10%) of the outstanding ownership or stock.

Transfer of more than ten percent (10%) of the total ownership or stock shall require a new license.

(2) The following information shall be required concerning any new manager, partner or LLC member, new director, officer, or person securing any interest in 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 Sturgis resident, indicate when residence was established;
- f. Whether or not he or she has any interest in any other license or in any LLC, corporation, partnership or other business organization holding a license under this act;
- g. Extent of stock or company ownership;
- h. Whether or not he or she has any interest in any license or in any LLC, corporation, partnership or other business organization holding a license in any other state or province.

(3) This information shall be filed with the City ABC Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made within ten (10) days of any change of required information.

7. Renewal of license.

(a) Every year, except in the case of temporary licenses, each licensee shall renew its license. All renewal licenses must be on file with the City ABC 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 or private organization possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew exiting 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 these facts, and the City ABC 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 City ABC 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.

(b) The renewal by the City ABC 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.

8. Lost or destroyed license.

When a license shall be lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC 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.

9. Revocation or suspension.

(a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of KRS Ch. 241 through 244, or any rule or regulation of the ABC Board, or of the Kentucky Department of Revenue, relating to the regulation of the manufacture, sale, and transportation, or taxation, of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale, and transportation, or taxation, of intoxicating liquors, or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Ch. 241 through 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 City ABC Administrator in the exercise of his or her sound discretion deems sufficient.

(b) A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.

(c) In addition to the foregoing stated causes, any license may be revoked or suspended for the following causes:

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

(2) Making any false, material statements 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 through 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if within such period, any licensee or any clerk, servant, agent or employee of the license 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 statutes, this

Ordinance, or acts of Congress relative to taxation, or for a violation of any rules or regulations of the Kentucky 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 lottery 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, lottery, gift enterprise, handbook or facility.

10. Proceedings for revocation or suspension of license.

(a) Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or of the City ABC Administrator, the City ABC Administrator may institute proceedings to revoke or suspend any license granted under this Ordinance. 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 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 received for or claimed.

(b) The specific procedures to be followed in hearings on actions for revocation or suspension shall be those set out in the Kentucky Administrative Procedure Act (KRS Chapter 13B).

(c) A decision of the City ABC Administrator revoking or suspending a license may be appealed as provided in KRS 243.550.

(d) 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 or her license to the City ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the Chief of Police, at the request of the City ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the City ABC Administrator.

(e) When a license has been revoked or suspended, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.

(f) Appeal from the decision of the City ABC Administrator revoking or suspending a license shall be to the ABC Board. The timely filing of an appeal shall stay further proceedings for revocation.

(g) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall at once suspend all operations authorized under his or her 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 this license.

11. Transfer or assignment.

No license issued under this chapter shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of one hundred dollars (\$100.00) shall be made to the City ABC Administrator.

12. Refusal of license; guidelines for approval of quota licenses.

(a) The City ABC 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 state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales or the administration thereof.

(2) If the applicant has done any act for which a revocation of license would be authorized under local, state, or federal law; or

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

(b) In the case of any licenses subject to the State ABC Board set quota, before approving an application, the City ABC Administrator is directed to consider, in addition to the factors set out in KRS 243.450, 243.490 and 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 of Sturgis places great value on business owners who are invested in the Sturgis community.

(2) Economic Impact. The City of Sturgis 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 of Sturgis 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 of Sturgis is committed to protecting the character and beauty of our community.

(5) Revitalization of Downtown. The City of Sturgis wholeheartedly supports the revitalization of downtown and the revitalization and reuse of existing buildings.

(6) Capital. The City of Sturgis values businesses that demonstrate their ability to financially support and sustain their viability.

(7) Public support of licensed business in the area. The City of Sturgis intends that public sentiment and safety be considered in deciding upon the approval of retail liquor sales licenses in any area of the city.

(8) Long Term Growth of the City. The City of Sturgis intends to consider the long term growth of the City and ensure that all growth is consistent with the City's overall growth strategy, the City's Comprehensive Plan, and the City's existing and future infrastructure capabilities.

(c) An applicant who has been refused a license by the City ABC Administrator may appeal the refusal to the ABC Board pursuant to KRS 241.200.

13. Review of license; books, records and reports.

(a) Applicants to whom a license is issued pursuant to this chapter 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 applicant's 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 chapter. In the event the conditions of any license requirement are not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether 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 City ABC 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.

(b)

(1) Every licensee under 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 City ABC Administrator and such city employees who may assist the City ABC Administrator in his or her review.

(2) For the purpose of assisting the City ABC 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 City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by statute shall be furnished to the City ABC Administrator.

14. Dormancy.

(a) 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 or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.

(b) 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 division (c) below are proved to the satisfaction of the City ABC Administrator, the license shall be surrendered to the City ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the City ABC Administrator.

(c) The provisions of division (b) hereof shall not apply to 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 existing lease. Prior to the expiration of ninety (90) days of inactivity, such licensee shall furnish to the City ABC 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 City ABC 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, however, no such license shall be considered valid unless business is conducted there under within twelve (12) months from the date of notice to the City ABC Administrator. Such extension may not extend beyond the renewal date but may be for such times as the City ABC Administrator deems appropriate in exercise of his or her sound discretion.

ARTICLE V. HOURS FOR SALE AND DELIVERY

1. Hours for sale and delivery.

(a) Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted to remain open during the hours of 7:00 a.m. to 12:00 midnight, but shall remain closed during the twenty-four (24) hours of Sunday, Christmas, and at any time when the election polls are open in the precinct in which the licensee's business is located.

(b) Premises for which there has been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 7:00 a.m. and 12:00 midnight, but shall be closed during the twenty-four (24) hours of each Sunday, Christmas and at any time when the election polls are open in the precinct in which the licensee's business is located. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with subsection.

(c) Retail sales of malt beverages may be made between the hours of 7:00 a.m. and 12:00 midnight each day except that no such sales shall be made during the twenty-four (24) hours of each Sunday, Christmas, or during any time when the polls are open for an election in the precinct in which the license is granted. Premises for which a malt beverage license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or chilled malt beverages are locked up and/or unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

(d) Any licensee for sales of alcoholic beverages by the drink or package who violates the preceding section shall be deemed guilty of a misdemeanor, shall be punished in accordance with the provisions of this ordinance, and the license shall be subject to revocation or suspension within the discretion of the City ABC Administrator.

(e) During the time a licensee's business is actually closed, the premises of any licensee for the sale of alcoholic beverages by the drink or package must be closed to and vacant of all customers and all persons except the licensee and employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purposes.

(f) Wholesalers shall not deliver alcoholic beverages on Sunday.

ARTICLE VI. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

1. Gambling.

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

2. Radio receiving apparatus.

It shall be unlawful for any licensee licensed 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 Union County as it is now, or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

3. Security.

The licensee shall be responsible for maintaining security on his or her 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.

4. Prizes prohibited.

It shall be unlawful for the 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 a full monetary consideration.

5. Drunkenness.

No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the 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.

6. Underage sales.

The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age. The licensee shall check all photo ID's to ascertain that every person attempting to purchase or consume alcoholic beverages is at least 21 years of age.

7. Sign requirements – Notice to persons under the age of twenty-one (21).

Per state law, the licensee shall display at all times in a prominent place a sign at least 8" x 11" in thirty (30) point or larger type font 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.**

8. License to be displayed.

(a) Pursuant to the requirements set forth in KRS 243.895, 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.

(b) The licensee shall post in a prominent place easily seen by patrons a printed sign at least 11" x 14" in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Kentucky Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this section shall be subject to a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00).

9. Legal transactions for wholesalers, distributors and retail.

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.

10. Employment restrictions.

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

- (a) Has been convicted of any felony within the last two (2) years;
- (b) 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;
- (c) 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;
- (d) Within two (2) years prior to the date of his or her employment, has had any city license under this chapter revoked for cause.

11. Happy hour restrictions.

Licensees shall not offer reduced drink specials (e.g. two-for-one, happy hours) before 4:00 p.m. Monday through Saturday, nor after the hour of 11:00 p.m. Monday through Saturday.

12. Lavatory facilities required.

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.

13. Nudity and adult entertainment activities prohibited.

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 premise. 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, jello wrestling or similar activities, nor shall a 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.

14. Drive-through outlets prohibited.

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.

15. Cause for revocation.

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

ARTICLE VII. MINORS

1. Possession by minors prohibited; no person shall aid possession by minors.

(a) Except as specifically authorized under KRS Ch. 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.

(b) 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 division (b) 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.

(c) No person shall knowingly permit, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licensees, as set out in this Ordinance, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.

(d) 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.

(e) 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 individuals' possession, consumption or

use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.

MINORS NOT TO POSSESS OR PURCHASE ALCOHOLIC BEVERAGES NOR TO MISREPRESENT AGE: USE OF FRAUDULENT IDENTIFICATION

(a) As used in KRS 244.083 and this section "*premises*" means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

(b) With regard to persons under 21 years of age:

(1) Except as herein provided, no person under 21 years of age shall enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

(2) No person holding any license for on-premises consumption of distilled spirits and wine or a license for retail malt beverage sales, or any clerk, servant, agent or employee thereof shall permit any person under the age of twenty-one (21) years on the licensed premises unless such premises is a restaurant, grocery store, hotel, private club, or upon the premises for a temporary licensed event, including plays or bona fide concerts. In such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.

(3) Minors not accompanied by a parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the hour of 10:00 p.m. unless the minor remains only in the designated restaurant area which is clearly separated from both the barroom area and any area provided for dancing.

(4) The prohibitions set forth in subsections (1), (2) and (3) shall not apply to persons under the age of twenty-one (21) who are working on the premises, either as an employee or an independent contractor, which persons may enter and remain on said premises while they are working, and at no other time.

(c) A licensee or any of his or her clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he or she:

(1) Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and permits any person under the age of twenty-one (21) to possess or consume any alcoholic beverage on the premises; or

(2) Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and allows or permits any person under the age of twenty-one (21) years to remain on the premises while that person possesses or consumes any alcoholic beverage.

(d) In the event a violation occurs under the provisions of this section, the City ABC Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with 241.160 and 241.190), to determine whether the licensee, at whose business establishment the prohibited activity occurred, may have such license suspended or revoked. In the event three or more violations under the provisions of this section occur at a business establishment within a twelve (12) month period, the City ABC Administrator, after a hearing, shall suspend or revoke said license.

(e) No person under twenty-one (21) years of age shall possess for his or her own use, or purchase or attempt to purchase or have another purchase for him or her, any alcoholic beverages. No person shall aid or assist any person under twenty-one (21) years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(f) No person under twenty-one (21) years of age shall misrepresent his or her age for the purpose of inducing any licensee, or other employee of any licensee, to sell or serve any alcoholic beverages to such person.

(g) No person under twenty-one (21) years of age shall use, or attempt to use, any false, fraudulent, or altered identification card or paper, or any other document, to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

ARTICLE VIII. CONSUMPTION ON PREMISES PROHIBITED

1. Consumption on licensed package premises prohibited.

No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises. The licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.

2. Exceptions.

This restriction regarding on premise consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of KRS Ch. 243, or where sampling is permitted for a retail distilled spirits and wine licensee under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:030.

3. Habitual congregating.

(a) Licensed premises. 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.

(b) *Vacant property*. 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.

(c) It shall be a defense to any prosecution under Article VIII, if a licensed vendor or property owner shall permit the City to post and maintain a legible, painted or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.

4. Definitions.

In addition to the definitions contained in KRS 241-244, as used in this Article, the term:

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

(b) *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;

(c) *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

(d) *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

1. Definitions.

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

2. Malt beverage keg identification tag.

All retail licensees (herein after referred to as "licensee") operating within the City of Sturgis 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:

(a) The purchaser is of legal age to purchase, possess and use the malt beverage;

(b) 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;

(c) The purchaser will not remove, obliterate or allow to be removed or obliterated the identification tag;

(d) The purchaser will state the property address where the keg will be consumed and physically located; and

(e) 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.

3. Keg registration.

(a) The licensee 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.

(b) 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.

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

(d) The city is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

(e) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the city concerning the provisions of this section.

4. Unlawful sales.

It shall be unlawful for any licensee to sell or offer for sale kegs 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 as set out in this Ordinance. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

ARTICLE X. ENFORCEMENT

1. Enforcement.

City police officers and the City ABC Administrator and Investigator(s) are hereby authorized to enforce this Ordinance in full for alleged violations.

ARTICLE XI. PENALTIES

1. Penalties.

(a) In addition to any criminal prosecution instituted in Union District Court against an alleged violator, the City ABC 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 article shall be adjusted accordingly to mirror the fines or penalties imposed by state law. Payment of all fines shall be remitted to the City ABC Administrator, who shall then transmit the fines to the City Clerk for deposit in the appropriate designated account.

(b) Any person, firm or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall be guilty of a Misdemeanor, and subject to prosecution in the Union County Court System, as follows: for the first offense, be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or imprisoned 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 for not more than six months, or both. The penalties provided for in this subsection 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 XII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

1. Mandatory responsible beverage service training.

(a) All persons employed in the *selling and serving* of alcoholic beverages shall participate in and complete a City ABC Administrator approved "responsible beverage service training program", which includes, but is not limited to, programs provided by, or recommended by, the state ABC Office (i.e. STARS; TIPS).

(b) All persons required to complete training under division (a) above shall complete that training within thirty (30) 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.

(c) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed hereunder must at all times when alcoholic beverages are being served have at least one person currently certified in responsible beverage service training on duty as described herein.

(d) All persons completing the training required by this section shall be re-certified not less than once every three (3) years thereafter.

ARTICLE XIII. SIGNS AND ADVERTISING.

1. Signs and advertising.

(a) All signage shall be in compliance with any and all other existing rules, regulations, and Ordinances of the City of Sturgis, including but not limited to, the Planning and Zoning Ordinance as currently enacted, and/or as may be amended in the future.

(b) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

(c) 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 XIV. PATIO AND OUTDOOR SALES

1. Patio and outdoor sales regulations.

(a) Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.

(b) No licensee shall offer alcoholic beverages for sale in a patio or outdoor area of the licensee's premises except in a clearly defined patio or outdoor area that is enclosed by a fence or other screening, not less than four (4) feet in height. All outdoor areas and screening shall be subject to the approval of the City ABC Administrator. An exception to this restriction may be granted for seasonal sidewalk cafes, upon application to and authorization from the ABC City Administrator. The permission to operate a sidewalk café shall be governed by the provisions of this article and shall be subject to the regulation of local zoning authorities as well as codes enforcement and public safety officers.

(c) No licensee shall offer patio or outdoor sales of alcoholic beverages unless the patio or outdoor area and fencing or screening area shall have been approved in advance by the ABC Administrator.

(d) Unless exempted by the following provisions of this Ordinance, and by permission of the City ABC Administrator, patio areas must comply with the screening requirements of this Ordinance. Sidewalk café seating areas must comply with this Ordinance and with local zoning laws and other public safety requirements noted in this Ordinance, or in other local ordinances, statutes or regulations.

(e) No music shall be played in said patio or outdoor areas that is of a volume that would violate any and all sound ordinances or regulations of the City of Sturgis.

2. Exception to screening requirement for outdoor sales and service of alcoholic beverages, specifically, permitted sidewalk cafes in the City's downtown business area.

(a) Licensees in the downtown business district/area may request an exception from the outdoor screening of patio provision in order to permit seasonal sidewalk cafes that serve food and alcoholic beverages as an adjunct to the primary and adjacent licensed premises. In the case of permitted sidewalk cafes, they shall be deemed part of the licensed premises.

(b) Any food establishment which operates a restaurant and is licensed under this Ordinance and the provisions of the state ABC code, may, upon application to the local ABC administrator, ask permission to expand the operation of that restaurant onto a part, and only that part, of the public

sidewalk which immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit.

ARTICLE XV. IMPLEMENTATION OF ORDINANCE PROVISIONS; SEVERABILITY

1. Implementation of changes in Ordinance provisions.

The Sturgis City Council may promulgate rules and regulations, and/or amendments thereto, as is in its discretion in order to ensure the proper implementation of this Ordinance. Such will be done as according to local, state, and federal law.

2. Infraction Constitutes a Misdemeanor

(a) Any person who violates any provision of this Ordinance for which no specific penalty is otherwise provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:

(1) For the first offense a fine not to exceed five hundred dollars (\$500.00);

(2) For any subsequent offense a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not more than six (6) months, or both.

(3) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

(b) In addition to any other penalty provided for herein, any licensee violating any provision of this Ordinance shall be subject to suspension or revocation of such licensee's license, subsequent to a hearing before the City ABC Administrator.

3. Severability.

If any section of this Ordinance, including but not limited to, any section, subsection, paragraph, sentence, clause, phrase, or any other portion of this Ordinance, is declared illegal or unconstitutional, or otherwise invalid by a Court of competent jurisdiction, such declaration shall not affect the remaining portions hereof.

4. Effective date of ordinance provisions.

This Ordinance shall take effect after its passage and Publication as required by law.

FIRST READING: 3-18-13 SECOND READING: 4-8-13

APPROVED Thomas R. Holt
THOMAS HOLT, MAYOR

ATTEST: Cindy Carr
CINDY CARR, CITY CLERK