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ORDINANCE NO. 457

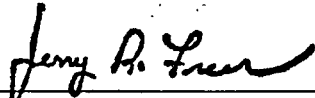
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AN ORDINANCE ESTABLISHING A SPECIAL
PRIVATE CLUB LICENSE FOR CITY OF MORGANFIELD, KENTUCKY

ALCOHOLIC
BEVERAGE CONTROL

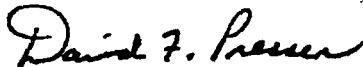
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MORGANFIELD,
UNION COUNTY, KENTUCKY:

1. That it hereby authorizes, pursuant to KRS 243.070 and KRS 243.270, the issuance of a special private club license to any nonprofit social, fraternal, military or political organization or club, with a National and or State charter, 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, which license shall authorize the licensee to exercise the privilege of a distilled spirits and wine retail drink license at the designated premises if the general public is excluded; provided, however, that said licensee is and remains in compliance with all laws and regulations of the Commonwealth of Kentucky and its agency.
2. That the annual license fee payable to the City of Morganfield for said special club license shall be \$300.00, payable on a fiscal year (July 1 – June 30) basis.
3. That the Ordinance shall take effect from and after its passage, approval and publication as required by law.



JERRY R. FREER, MAYOR

ATTEST:



DAVID PRESSER
CITY ADMINISTRATOR

1st Reading: February 23, 2006

2nd Reading: March 23, 2006

Published: March 29, 2006

AN ORDINANCE PERMITTING LIMITED SALE OF DISTILLED SPIRITS BY THE DRINK

WHEREAS, the Court held a first reading on May 25, 1999, and after due advertisement and a second reading on June 8, 1999, and UPON MOTION of Mag. Veatch, SECONDED BY Mag. Clements, AND A VOTE BEING HAD AND THE COUNTY JUDGE/EXECUTIVE ANNOUNCING THAT THE MOTION CARRIED.

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

SECTION I: AID TO ECONOMIC GROWTH.

The Fiscal Court, after due consideration, hereby determines that

- and
- A. An economic hardship exists within the boundary confines of Union County;
 - B. That permitting the sale of distilled spirits and wine by the drink on certain premises can aid the economic growth of Union County.

SECTION II: DEFINITIONS.

As used in this Ordinance, unless the context requires otherwise, words, phrases, and terms shall be defined as provided in KRS 241.010.

SECTION III: PREMISES TO BE LICENSED - LIMITATIONS.

A. LICENSES REQUIRED FOR SALE.

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic beverages, nor manufacture or transport any alcoholic beverages in the County unless he shall first procure and have issued to him a license under the provisions of this Ordinance and all statutes of Kentucky and regulations adopted pursuant to this Ordinance.

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B. SALE OF ALCOHOLIC BEVERAGES BY THE DRINK.

A special retail drink license for the sale of distilled spirits by the drink shall be issued only on the following conditions:

- (a) Hotels, motels, or inns must have not less than fifty (50) sleeping units and dining facilities for not less than one hundred (100) persons. Restaurants must be bona fide restaurant establishments, open to the general public and having dining facilities for not less than one hundred (100) persons.
- (b) Bona fide restaurants are restaurants which derive at least fifty (50%) percent of their total gross receipts from the sale of food and have been open to the public for at least 180 days prior to making their application.
- © Applicants shall obtain and present with the application a fire marshall's certificate as to seating capacity of the dining facility and food service permit from the health department.
- (d) All alcoholic beverages must be consumed on the premises.
- (e) No licensee shall require a minimum cover charge or charge admission to the premises.
- (f) All licensees shall conduct alcohol awareness training twice yearly and the certificate for same must be available to the Alcohol Beverage control enforcement Officer.
- (g) Each restaurant licensee shall file with the County's Alcohol Beverage Control Enforcement Officer every six months a report setting out the total gross receipts from the sale of food and the total gross receipts from the sale of alcoholic beverages.

SECTION IV: TERRITORY LIMITS.

A. Incorporated Areas.

Inasmuch as the incorporated areas have the ability to adequately police the licensed premises in their respective areas, the license issuance herein permitted shall include those incorporated areas located in the confines of Union County where the sale of distilled spirits and wine is not prohibited otherwise by law, or areas of prohibition as provided by KRS 242.230 or prohibited by the legislative body of any incorporated area located therein.

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B. Unincorporated Areas:

The license issuance permitted herein may include, upon application to and approval by the County's Alcohol Beverage Control Enforcement Officer, premises located in unincorporated areas of Union County which, in addition to all other requirements set forth in this Ordinance, meet the following criteria:

- (i) The premises include or are an integral part of a bona fide executive conferencing complex containing meeting facilities for not less than 200 persons, or
- (ii) The premises include or are an integral part of a bona fide recreational complex such as a golf course facility of not less than eighteen (18) regulation holes, a tennis facility providing not less than six (6) regulation courts, or some other facility determined by the County's Alcohol Beverage Control Enforcement Officer to be of such substantial benefit in promoting economic development within Union County; or
- (iii) Such other facilities or complex as the County's Alcohol Beverage Control Enforcement Officer may determine to be of substantial and lasting benefit in promoting economic development within Union County, that does not exceed the County's ability to adequately police the licensed premises, and that does not create an undue burden or hardship upon citizens residing in the area of the licensed premises.

V: LICENSE FEE

A license issued to hotels, motels, inns or restaurants that meet the regulations and restrictions contained herein shall be charged a fee of \$600.00 per annum for the license.

VI. REGULATORY FEE.

An annual license fee of Five Hundred Dollars (\$500.00). IT be deemed that the sums so raised are essential and necessary to fully reimburse the county for the reasonably estimated expenses of additional policing, regulatory and administrative related to costs. Such fee shall be in addition to an other taxes, fees or licenses permitted by law.

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VII. HOURS OF SALE.

(A) Retail Sale for Consumption on Licensed Premises. Premises for which there had been granted a license for the retail sales of alcoholic beverages by the drink, shall be permitted to remain open between the hours of 11:00 a.m. and 12:00 midnight each weekday but shall be closed during the twenty-four (24) hours of each Sunday, Christmas and at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate department within his 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 foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

(B) Violations: Revocation or Suspension of Licenses. Any licensee for sales of alcoholic beverages by the drink who remains open for business at any time except the hours permitted under this section shall be deemed guilty of a misdemeanor and shall be punished in accordance with the provisions of this Ordinance and his license shall be subject to revocation or suspension within the discretion of the Alcoholic Beverage Control Administrator. Penalty, See 118.99.

(C) Control of Premises During Closing Hours. During the closing hours, the premises of any licensee for the sale of alcoholic beverages by the drink must be closed to and vacant of all customers and all persons except the licensee and his 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 purpose.

(D) Wholesale Deliveries on Sundays Prohibited. There shall be no delivery by wholesalers of alcoholic beverages on Sunday.

HOURS OF SALE, EXCEPTIONS; REQUIREMENTS.

A premise that can demonstrate to the County Alcoholic Beverage Control Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is not less than fifty percent (50%) of the total gross sales of the licensed restaurant for the annual license period shall be allowed to remain open during hours when the sale of alcoholic beverages shall be locked and closed off from the public during said time period.

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CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR.

If any alcoholic beverages are found on the outside of the locked or closed-off department of any licensed premises at any hours during which the licensee is prohibited by the State Alcoholic Beverage Control Act or by this Ordinance from selling alcoholic beverages, a prima facie presumption shall arise that such alcoholic beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this Ordinance and the State Alcoholic Beverage Control Act and shall be grounds for revocation or suspension of the license. In addition to other penalties provided for the violation of this Ordinance, the County Alcoholic Beverage Control Administrator is hereby authorized to confiscate the alcoholic beverages.

SECTION VIII: PENALTY

Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of this Ordinance shall be subject to the penalty as prescribed by KRS 244.990, and/or other applicable statutes.

SECTION IX: CONFLICT

In the event that any provisions within this Ordinance is in conflict with any provisions of Kentucky law, then the parts or portions of this Ordinance be and are repealed to the extent of such conflict.

UNION COUNTY FISCAL COURT

Larry Joe Jenkins
Vicki O'Nan

ATTEST:

Vicki V. O'Nan
UNION COUNTY FISCAL COURT CLERK

ADOPTED: June 8, 1999

EFFECTIVE: June 8, 1999

Book 8, Page 211

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ORDINANCE

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TO LICENSE AND REGULATE THE SALE, TRANSPORTATION, POSSESSION OR OTHER DISPOSITION OF SPIRITUOUS, VINOUS OR INTOXICATING MALT LIQUORS FOR MEDICINAL, SACRAMENTAL, SCIENTIFIC OR MECHANICAL PURPOSES AND PROVIDING FOR THE VIOLATION THEREOF:

FRANKFORT, KY.

The City Council of the City of Morganfield, Kentucky, do ordain as follows:

SECTION 1. Retail Liquor Dispenser License. A "Retail Liquor Dispenser's License" when issued by the City of Morganfield under authority of the Council shall permit its holder to sell at retail, vinous or spirituous liquors in unbroken packages in either pint or quart sizes, or cases on physician's prescription for medicinal, mechanical, sacramental or scientific purposes, said liquors not to be consumed on the premises where purchased. The fee for such "Retail Liquor Dispenser License" shall be Four Hundred (\$400.00) Dollars per year.

SECTION 2. POSTING: Every license and permit issued pursuant to this ordinance shall be posted while in force in a conspicuous place in the room or place where intoxicating liquors are kept for sale. Whenever a license or permit shall be lost or destroyed without fault on the part of the holder or his agent or employee, a duplicate in lieu thereof under the original application, shall be issued by the City Mayor or a city employee designated by the Mayor on satisfying himself as to the facts upon the payment of a fee of One Dollar.

SECTION 3. REVOCATION: A violation of this ordinance by a duly authorized agent or employe of a licensee or permit holder shall constitute a violation of the license or permit holder, and whenever the holder of any license or permit under this ordinance shall violate any portion of the ordinance or any regulations adopted pursuant thereto, the Council of the City of Morganfield shall cancel or revoke such license.

SECTION 4. PENALTIES: Any person who himself or itself or by his agent or employee shall violate any of the provisions of this ordinance shall upon conviction thereof be punished as follows:

(a) If for violation of any provision enacted by reference, by a penalty, the same as provided by statute:

(b) If for selling intoxicating liquor without a license or permit by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) besides the costs; or, in lieu of such fine, by imprisonment in jail not less than one month nor more than three months and in case of punishment by fine, unless the fine and costs be paid forthwith be committed to the county jail until paid or until discharged by due course of law; and in case of a second or subsequent conviction by the same person, the punishment shall be both by fine and imprisonment; and each sale shall constitute and be a separate offense.

(c) If for violation of any other provision of this ordinance by fine of not more than Three Hundred Dollars (\$300.00) or by imprisonment in jail for not more than Ninety Days (90) or by both such fine and imprisonment, and in the event of conviction of this ordinance, any license which may have been issued shall without notice be forthwith forfeited. RECEIVED NOV 21 1948

SECTION 5. All money derived from the collection of license taxes herein provided for, and all money derived from the forfeiture of bonds herein provided for shall be paid into and become a part of the General Fund of the City of Morganfield.

SECTION 6. The licenses as required by this ordinance, shall not be issued for less than one year and shall expire on June 30 of each year hereafter.

SECTION 7. This ordinance shall become effective at midnight on June 30, 1940.

SECTION 8. This ordinance hereby adopts and ratifies all of the provisions and sections of an ordinance heretofore passed by the City Council and dated June 7, 1935.

Upon submission of the above ordinance by Mayor Waller Young, the vote of each councilman was as follows: Thompson, yes; Inge, yes; Fenwick, yes; Offutt, yes.

WALLER YOUNG, Mayor
City of Morganfield, Ky.

Attest: R. A. Waller, Clerk,
City of Morganfield, Ky.

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DEPT. OF REVENUE
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ORDINANCE B-5

AN ORDINANCE PROVIDING FOR THE LICENSING OF, AND IMPOSING LICENSE TAXES ON, AND REGULATING, THE BUSINESSES OF MANUFACTURING, DEALING IN AND SELLING BEER, LAGER BEER, ALE, PORTER, STOUT, WINE, SIMILAR FERMENTED MALT OR VINOUS LIQUOR, AND FRUIT JUICE, CONTAINING ONE-HALF OF 1 PERCENT OR MORE OF ALCOHOL BY VOLUME, AND NOT MORE THAN 4.81 PER CENTUM OF ALCOHOL BY WEIGHT; AND PROVIDING THAT ALL LICENSE TAXES AND BOND FORFEITURES COLLECTED UNDER THIS ORDINANCE SHALL BE PAID INTO THE GENERAL FUND OF THE CITY; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, by an Act entitled "An Act to provide Revenue by the Taxation of certain non-intoxicating Liquor, and for other purposes," passed by the 73rd Congress of the United States at its session held in March, 1933, and duly signed by the President on the 22nd day of March 1933, and which in terms provides that it "shall take effect on the expiration of fifteen days after the date of its enactment," the Alcoholic beverages hereinafter specified are removed (effective from midnight of the 6th day of April, 1933) from the operation of the National Prohibition Act, and permitted by the Federal Government to be made, sold and dealt with as non-intoxicating beverages, in states where there is no state or local law prohibiting their sale; and

WHEREAS, it appears that there is no State law, nor other law in effect to prohibit the manufacture, sale of and dealing in such beverages in the City of Morganfield, Kentucky;

NOW, therefore, in order to provide revenue for the City of Morganfield from the collection of license taxes upon the businesses of manufacturing, dealing in and selling the alcoholic beverages specified in said Act of Congress and in this Ordinance, and to regulate such business to some extent in said City,

BE IT ORDAINED by the City Council of the City of Morganfield that:

SECTION 1. For the purposes of this ordinance,

(a) The term "beer" shall be construed to include within its meaning only beer, lager beer, ale, porter, stout, wine, similar fermented malt or vinous liquor, and fruit juice, containing one-half of 1 per centum or more of alcohol by volume, and not more than 4.81 per centum of alcohol by weight:

(b) The term "person" shall be construed to include within its meaning "person", "partnership," "association," "company" and "corporation:"

(c) The term "distribution" shall mean any person, other

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delivery within the City, shall deliver same, or cause it to be delivered, within the City.

(d) The term "retail dealer" shall mean any person that sells beer, as herein defined, in quantities not greater than two dozen bottles of 12 ounces each, for consumption off the premises of the seller:

(e) The term "dispenser" shall mean any person that sells beer, as herein defined, for consumption on the premises of the seller:

SECTION 2. Each manufacturer or brewer of beer in the City shall pay an annual license tax of Two Hundred and Fifty Dollars (\$250.00).

SECTION 3. Each distributor of beer in the City shall pay an annual license tax of Seventy-five Dollars (\$75.00), and each distributor outside of the City delivering beer within the City, shall pay an annual tax of Twenty-five Dollars (\$25.00).

SECTION 4. Each retail dealer or dispenser of beer in the City shall pay an annual license tax of Twenty-five Dollars (\$25.00) for each store or premises from which he sells or delivers beer.

SECTION 5. Each person applying for a license as a manufacturer or brewer, dispenser or retailer of beer shall file a written application properly subscribed and sworn to before a Notary Public or other officer authorized to administer an oath, whereon shall be stated the applicant's name, age, nativity and address and the exact location, by street number or otherwise, of the premises where the beer is to be sold, and the name of the owner of said premises, and, if the applicant be a corporation, the name and address of the president or other chief officer of such corporation and of the person who is expected to manage or conduct the sale of beer on the premises; and said application shall contain a statement signed by two reputable citizens and tax-payers of the City to the effect that the applicant is of good standing and character and will in their opinion comply with the law and the ordinances in the conduct of the proposed business; and said application shall also be accompanied by a bond to the City of Morganfield in the penal sum of \$500.00, executed by the applicant with one or more sureties acceptable to the City, or else a cash bond of \$500.00 conditioned upon the applicant's faithful compliance with and observance of law in the conduct of the proposed business. And before such application is acted upon a reasonable time, not exceeding however one week, may be taken by the Mayor or other employee of the City designated by him, to investigate the character and standing of the applicant and the worth of the sureties on the bond. Upon approval of such application the applicant shall pay the amount of the license tax in advance at the time of the issuance of the license. The form of application for license, provided for in this section shall be such as the Mayor or City Council may from time to time prescribe.

Any license issued under this section shall be given upon

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ness, the Council of the City shall have the right to hold a public hearing upon such charge, after not less than three (3) days written notice to the licensee, and if upon such public hearing the Council shall find the licensee guilty of the charge, it may revoke his license, and that upon any such revocation of the license the bond filed therewith shall stand forfeited to the City of Morganfield, and the amount thereof shall be paid over to the City. And upon revocation of any such license the licensee shall not thereafter be granted a license to engage in the same or a similar business within one year next after such revocation: And the City Council may, in its discretion, direct in connection with its revocation of the license that no other license be issued to anyone else within one year thereafter to conduct the same kind of business at the same place. No license shall be issued to any person ever convicted of a felony, nor in any case where any such person is proposed or expected to manage or conduct the sale of the beer, nor to any person known to be of evil repute.

SECTION 6. No license issued to a retail dealer or dispenser of beer under the terms of this ordinance shall authorize the sale of beer at more than one place: a separate license must be taken out for each place where beer is proposed to be sold: provided, however, that such a license may cover more than one room or place in the same building or on the same premises. No retail dealer's nor dispenser's license issued under the terms of this ordinance shall authorize the licensee to discontinue selling at one place and transfer his place of sale to another place, without the consent of the City: nor shall any such license be transferred from one person to another without the consent of the City, to be obtained only upon the filing of a new application by the proposed transferee.

SECTION 7. No license provided for by this Ordinance shall be issued for less than the full amount herein prescribed for a full year. Renewal licenses for succeeding years shall be due and payable on the 1st day of July in each year.

SECTION 8. Any person who shall enter upon any of the business defined in this ordinance without first procuring the license herein required therefor, or continue in such business in any succeeding year without obtaining a renewal license therefor by the end of July of such year, shall be in default and shall be liable to be proceeded against for a penalty as herein prescribed, in addition to the amount of the license.

SECTION 9. Upon payment of a license tax as herein provided for, the City, through its Mayor or other employee designated by the Mayor, shall issue to the licensee a license upon such form as may be prescribed by the Mayor and such license shall thereafter, during the year for which it is issued, be kept by the licensee at all times posted in a conspicuous place at the office or place of business mentioned in the license.

SECTION 10. No distributor, retail dealer or dispenser, shall buy any beer in the City except from a person holding a license issued in conformity with this ordinance.

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within the meaning of this ordinance shall be conducted openly and without any attempt to hide it or screen it from public view.

SECTION 13. Any person. who shall violate any provision of this Ordinance shall upon conviction in the Police Court of the City be fined not less than Twenty-five (\$25.00) Dollars nor more than One Hundred dollars (\$100.00) or be imprisoned not less than ten (10) nor more than thirty (30) days, or both so fined and imprisoned for the first offense, and for the second or any subsequent violation, he shall be fined not less than One Hundred (\$100.00) Dollars, nor more than Five Hundred Dollars (\$500.00), or imprisoned not less than thirty(30) days nor more than ninety (90) days, or both so fined and imprisoned.

SECTION 14. Should any section, or part of any section, or any provision, of this ordinance be held to be invalid, the remainder of the ordinance shall not be affected thereby.

This Ordinance shall become effective at midnight of June 30, 1935.

This Ordinance was voted upon by the Councilmen present and the vote of each councilman was as follows:

Thompson...Yes
Inge ...Yes

Truitt---Yes
Alhorn...Yes

Fenwick---Yes
Offutt....Yes

Passed by the City Council of the City of Morganfield, Kentucky, on June 7th, 1935.

Waller Young
Mayor

ATTEST:

R. A. Waller
City Clerk.