

**CITY OF OWENTON, KENTUCKY
ORDINANCE NO. 748**

**AN ORDINANCE OF THE CITY OF OWENTON, OWEN COUNTY,
KENTUCKY, RELATING TO MANDATORY RESPONSIBLE BEVERAGE
SERVER TRAINING.**

WHEREAS: Surveys of businesses selling alcohol have found that youth can easily purchase alcohol without showing any age identification. Alcohol sales to individuals who are or about to become intoxicated pose a significant risk of serious injury or death to the motoring public and financial liability to the business serving the alcohol. Alcohol servers and sellers who receive responsible beverage service training should be less likely to sell alcohol to persons under age or who have consumed too much alcohol by virtue of their training in the identification of false age documentation and recognition of characteristics of intoxication; and

WHEREAS: Responsible beverage service training would inform alcohol servers and sellers of the consequences of the illegal sale of alcohol to persons under age or who have consumed too much alcohol. This training would be more effective through the participation of owners or managers of businesses selling alcohol in courses on the development of effective policies, which reduce youth access to alcohol and support employees in refusing the sale or service of alcohol to persons under age or who have had too much alcohol.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OWENTON, IN OWEN COUNTY, KENTUCKY, AS FOLLOWS:

SECTION I

Mandatory Responsible Beverage Service Training.

All persons employed in the selling and serving of alcoholic beverages shall participate in a City-approved responsible beverage service training program. For a responsible beverage service training program to be approved by the City, it must effectively train its participants in the identification of false age documentation and recognition of characteristics of intoxication. The City will not require enrollment in particular classes, but only that the training be obtained from a recognized program meeting the goals expressed in this Ordinance.

SECTION II

Licenses.

A. All persons employed by a person or entity licensed under City Ordinance No. 747 for the sale of alcoholic beverages whose job duties include the sale or service of alcoholic beverages or the management of premises on which alcoholic beverages are served, shall complete responsible beverage service training from a program approved by the City.

B. All persons licensed under City Ordinance No. 747 for the sale of alcoholic beverages shall complete responsible beverage service training from a program approved by the City.

C. All entities licensed under City Ordinance No. 747 for the sale of alcoholic beverages shall designate a person who, on behalf of the entity, shall complete responsible beverage service training from a program approved by the City. The person designated must have the authority to implement or amend the licensee's on-premise practices for selling and serving alcohol.

D. All persons required to complete training under paragraphs A, B, and C, above, shall complete that training within forty-five days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in responsible beverage service training from a program approved by the City not less than once every three years thereafter.

E. All persons or entities licensed under City Ordinance No. 747 for the sale of alcoholic beverages shall require all their employees who are engaged in the selling or serving of alcoholic beverages or the managing of premises on which such sales are offered to complete a City-approved responsible beverage service training class according to the provisions of this Ordinance.

SECTION III

Required information and Signage to Assist the Trained Servers and Sellers.

A. **Driver's License Guide and Compilation of Laws.** The Licensee shall maintain the following information on the premises, in a location accessible at all times to all employees of the licensed establishment:

1. A current driver's license guide, which shall include license specifications for both adults and minors for each state (including Canadian provinces), and shall list such information from at least five (5) years prior to the present date; and
2. A current compilation of the laws relating to the sale and possession of alcoholic beverages in Kentucky. This compilation must also include City Ordinance No. 747.

B. **Signage.** The licensee shall maintain on the premises, in all customer areas, current signage related to underage consumption of alcoholic beverages and to driving under the influence of alcohol. One (1) sign must be located behind the counter/bar and one (1) sign must be present in each additional room or section within the restaurant area in which the writing on the sign behind the counter/bar is not clearly legible. The sign(s) must have dimensions of at least one (1) foot by one (1) foot with letters at least one-half (1/2) inch in height. All signs must be comfortably readable from a distance of fifteen (15) feet. Any signs required by this Ordinance for which there are comparable ABC requirements shall be maintained in conformity with KY ABC regulations.

C. **Personnel Certification Records.** Each licensee shall maintain a file on its business premises for each person connected with its business for whom training is required under this Ordinance. That file shall contain the name, job description, date of employment and proof of certification pursuant to this Ordinance of each employee, officer and agent subject to the training requirement provided in this Ordinance. During business hours, this file shall be available to the person or persons designated by the Mayor's Office with responsibility for enforcement of this Ordinance and City Ordinance No. 747 related to the licensing of premises for the sale of alcoholic beverages.

SECTION IV.
Seller/Server Training Agency

A. Licensees and servers shall participate in a training program with an approved responsible beverage service training agency, selected and approved by the City.

B. Compensation. The approved training agencies shall not be compensated or otherwise reimbursed by the City. The training agencies shall recover costs and profit through fees collected from the persons receiving the training.

C. Training. The approved training agencies shall certify the qualifications of all required participants as required by this Ordinance. All new employees, officers or agents shall complete the training with sixty (60) days following their hiring or other event which subjects that person to the training requirement. New employees, officers or agents failing to complete the training within the prescribed time shall not work on the premises after the expiration of that period until they have successfully completed such training.

D. Standards for Certification. The training agency must reasonably instruct upon and certify the participants' competence in at least the following:

1. Pertinent laws and ordinances related to the sale of alcohol;
2. Verification of age, forms of identification and usual methods of false or misleading age identification;
3. The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by persons vulnerable to its effects;
4. Recognition of the signs of intoxication;
5. Strategies for intervention and prevention of underage and intoxicated persons from consuming alcohol;
6. The licensee's policies and guidelines, including the employee's role in observing those policies, and
7. Potential liability of persons serving alcohol.

E. Qualifications for Training Agencies. The training agency shall have a minimum of two (2) years actual experience in responsible beverage service and alcohol awareness training. Each instructor shall be certified to teach his or her subject matter.

F. Personnel and Physical Resources. The training agencies shall have sufficient personnel and physical resources to provide responsible beverage service training course to newly hired employees, officers and agents as required by this Ordinance.

SECTION V.
Penalties

Consistent with the provisions of City Ordinance No. 747, the Mayor, or his or her designee, is charged with primary responsibility for enforcement of this Ordinance.

Penalties for violation of this Ordinance shall be assessed against the person or entity holding a license for the sale of alcoholic beverage under City Ordinance No. 747. The individual employee shall not be civilly or criminally liable for violations of this Ordinance. The penalties assessed against the Licensee for violations of this Ordinance are as follows:

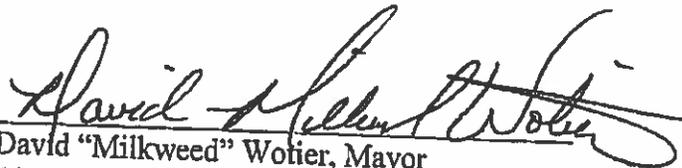
- A. For the first violation, a fine not exceeding Fifty Dollars (\$50.00).
- B. For Subsequent violations, within a two-year period, a fine not exceeding Five Hundred Dollars (\$500.00) and suspension of the licensee's City liquor license for not less than three (3) days nor more than thirty (30) days. The licensee may redeem the days of that suspension for the payment of Five Hundred Dollars (\$500.00) each.
- C. Each day of each violation shall constitute a separate violation.

SECTION VI

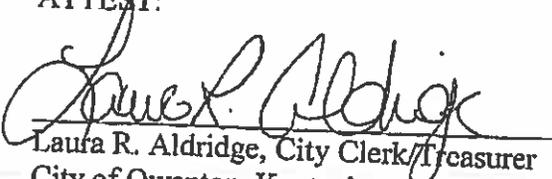
This Ordinance, upon its adoption and approval according to law, shall be effective as soon as practical.

SECTION VII

All Ordinances or parts of any Ordinances in conflict herewith, to the extent of such conflict, if any, are hereby repealed.


David "Milkweed" Wotier, Mayor
City of Owenton, Kentucky

ATTEST:


Laura R. Aldridge, City Clerk/Treasurer
City of Owenton, Kentucky

1st Reading 2/23/15
2nd Reading 3/3/15
Published 3/18/15

**CITY OF OWENTON, KENTUCKY
ORDINANCE NO. 747**

AN ORDINANCE OF THE CITY OF OWENTON, OWEN COUNTY, KENTUCKY, RELATING TO THE LICENSING OF RESTAURANTS AND DINING FACILITIES FOR THE SALE OF ALCOHOLIC BEVERAGES BY THE DRINK WHEN SUCH FACILITIES SEAT A MINIMUM OF ONE HUNDRED (100) PERSONS AND DERIVE A MINIMUM OF SEVENTY PERCENT (70%) OF GROSS RECEIPTS FROM THE SALE OF FOOD.

WHEREAS: KRS 242.185 as amended and substituted by KRS 243, et. seq. and/or KRS 243.034 authorizes, by petition in accordance with KRS 242.020, a city in which prohibition is in effect, to hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food;

WHEREAS: KRS 242.185 as amended and substituted by KRS 243, et. seq. and/or KRS 243.034 further authorizes the local government of a jurisdiction in which such alcoholic beverage sales are authorized to adopt regulations licensing such sales along with any other reasonable administrative regulations as may be necessary for the enforcement or administration of that statute. Regulations adopted pursuant to that authority shall conform to the requirements of KRS 241.190; and

WHEREAS: The local option election was conducted pursuant to KRS 242.185 as amended and substituted by KRS 243, et. seq. and/or KRS 243.034 and approved. It is now the responsibility of the City to adopt regulations reasonably calculated to assure the sale of alcoholic beverages consistent with the legislative intent.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OWENTON, IN OWEN COUNTY, KENTUCKY, AS FOLLOWS:

SECTION I

Purpose.

This Ordinance is adopted to regulate the sale of alcohol pursuant to KRS 242.185 as amended and substituted by KRS 243, et. seq. and/or KRS 243.034 in such a manner as to effectuate the legislative intent of that statute. That intent is to permit the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat at least one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food. To realize this intent, the City shall implement this Ordinance in such manner as to assure that:

A. Restaurants and dining facilities licensed under this Ordinance shall seat a minimum of one hundred (100) persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfied this seating threshold.

B. The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty.

C. Restaurants and dining facilities licensed under this Ordinance shall derive a minimum of seventy percent (70%) of their gross receipts from the sale of food as certified by periodic documentation.

SECTION II **Application Review.**

No alcoholic beverage shall be sold in the City, except as authorized under KRS 242.185 as amended and substituted by KRS 243, et. seq. and/or KRS 243.034 and this Ordinance. Authorization under this Ordinance shall be obtained only upon the City's receipt and approval of an application in accordance with this Ordinance, the City's issuance of a license, the ABC's receipt and approval of an application in accordance with applicable law and the ABC's issuance of a license.

Application submittal and review shall be conducted as follow:

A. **Application and Fee.**

1. Persons requesting approval and license authorizing the sale of alcoholic beverages by the drink pursuant to KRS 242.185 as amended and substituted by KRS 243, et. seq. and/or KRS 243.034 and this Ordinance shall submit a completed application to be obtained from the Office of Mayor. The Office of Mayor shall determine the form of this application and the information required by it. That form and information shall be reasonably calculated to permit a reviewing officer to determine compliance with this Ordinance. In any event, the City shall accept an application in the form approved and accepted by the Alcoholic Beverage Control (ABC). Any applicant utilizing the ABC form shall provide any additional information not otherwise required by the ABC form by supplemental attachment to the application.
2. Applicants for a license under this Ordinance shall pay a license fee of One thousand, two hundred dollars (\$1,200.00) pursuant to the provisions of KRS 243.070.

B. **Supplemental Information.** An applicant currently operating a restaurant or dining facility of comparable size to that which is the subject of the application and one that offers the sale of alcoholic beverages by the drink shall supplement the required application. The required supplemental data shall include information related to its current operation, which reasonably demonstrates the likelihood that applicant's business in Owenton will yield income earned through the sale of food equal to or greater than seventy percent (70%) of its gross receipts. This supplement data shall include, but not necessarily be limited to, the following specific information:

1. The population of the community in which it currently operates;
2. Alcohol sales permitted in; the community in which it currently operates;
and
3. The hours of operation, including any differentiation between the hours during which food and drinks are sold.

C. Periodic Information. Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) 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 tax filings. Regardless of the applicant's filing schedule, the first of the applicant's periodic information shall be submitted not later than six months after applicant commenced sale of alcoholic beverages pursuant to this Ordinance.

This information shall consist of a certificate from a Certified Public Accountant familiar with the applicant's pertinent business records. This certificate shall state:

"I have conducted a limited scope audit according to accepted accounting principles of the pertinent records of _____, Licensee under Ordinance _____, and certify that the Licensee earned at least seventy percent (70%) of its gross receipts from the sale of food during the quarter ending _____."

This certificate shall include a brief description of the methodology utilized in the determination of the certified percentage.

D. Administrating Officer. The City Officer responsible for administering this Ordinance shall be the City Clerk or such City employee as the Mayor shall designate. All transactions required for compliance or enforcement of this Ordinance shall be directed to or issued by the Mayor and/or the City Clerk. He or she shall review the applications along with supplemental and periodic information and issue licenses authorizing the sale of alcoholic beverages by the drink pursuant to this Ordinance. The City's Administrating Officer and employees with dutics arising under this Ordinance shall comply with KRS 241.180 and 190.

E. Forms. All forms reasonably necessary for the implementation of the Ordinance shall be provided by the Mayor's office.

F. Auditing Authority. The Mayor and the City's Administrating Officer is empowered to demand access to the pertinent business records of any applicant or licensee for the purpose of conducting an independent audit of those records to substantiate compliance with this Ordinance. The Mayor and the City's Administrating Officer may obtain such outside professional services as are reasonably necessary to conduct the audit. In the event the independent audit reveals non-compliance by the applicant or licensee, the cost of the audit shall be assessed to the licensee.

SECTION III
Issuance and Renewal of Licenses.

A. **Issuance:** Upon satisfactory compliance with all City imposed requirements, the City's Administrating Officer shall sign an acknowledgement of that compliance. The ABC shall rely upon that acknowledgement and upon review of the application to the ABC, shall issue an appropriate license. Upon presentation of the ABC issued license, the City's Administrating Officer shall issue the City's license.

B. **Renewal:** A license issued pursuant to this Ordinance shall authorize the sale of alcoholic beverages for one year. The license may be renewed annually thereafter upon a showing of compliance with applicable regulations and the payment of a renewal fee of One thousand, two hundred dollars (\$1,200.00).

C. **Transfer and Assignment:** No license issued under this Ordinance shall be transferred, sold or assigned, as to licensee or location.

SECTION IV.
Operational Regulations.

A. **Hours:** No licensee operating pursuant to this Ordinance shall be open for business earlier than 6:00 a.m. or later than 12:00 midnight, Monday through Thursday. Friday and Saturday license operating hours pursuant to this Ordinance shall be 6:00 a.m. and no later than 1:00 a.m.

B. **Sales Permitted Only When Food Available:** The provisions of Section Four (A) above, notwithstanding, no licensee operating pursuant to this Ordinance shall sell alcoholic beverages at any time at which the licensee's kitchen and food service staffs are off duty. This requirement is necessary for accomplishment of the legislative intent stated in Section I, above, and in KRS 242.185 as amended and substituted by KRS 243, et. seq. and/or KRS 243.034. No carry-out alcohol sales shall be permitted and no alcohol shall be taken off the premises.

C. **No Sunday Sales Permitted:** The license issued under KRS 242.185 as amended and substituted by KRS 243, et. seq. and/or KRS 243.034 and this Ordinance authorizes the sale of alcoholic beverages only Monday through Saturday. Sunday sales of alcoholic beverages can be authorized only upon the City's adoption of an Ordinance expressly providing for such sales.

SECTION V.
Violations

A. **Fines:** Violations of this Ordinance shall be punishable by fine of up to Five Hundred Dollars (\$500.00) for each offense. Complaints alleging violations of this Ordinance

may be filed in the Owen District Court and prosecuted as all other municipal ordinance violations. Each day of each violation shall constitute a separate offense.

B. Administrative Action: Violations of this Ordinance shall constitute grounds for administrative action by the City's Administrating Officer. Appropriate actions by the Administrating Officer upon the determination of a violation shall include a warning and probationary period in which the violation is corrected, a license suspension or license revocation. Suspensions may be satisfied by the payment of a fine of Fifty Dollars (\$50.00) per day. The action of the Administrating Officer shall be commensurate with the seriousness of the violation. Upon a finding of a subsequent material violation, the license may be suspended for such time as is commensurate with the seriousness of the offenses or, if previously suspended, revoked. Subsequent suspensions may be satisfied by the payment of a fine of Fifty Dollars (\$50.00) per day for no more than one-half (1/2) of the suspension.

C. Show Cause Hearing: Hearings on alleged violations shall be in the manner of a "show cause" hearing at which the licensee shall bear the burden of persuasion that the alleged violation did not occur. The licensee shall be afforded the right to:

1. Reasonable notice of the charge;
2. Representation;
3. Presentation of such evidence and witnesses as in its discretion are appropriate to the issue; and
4. A finding reasonably supported by the evidence.

D. Hearing Officer: Pursuant to Section Two (D) above, the City Administrating Officer may designate a City employee or other person as the hearing officer to conduct the hearing provided for in this Section. In the event of such a designation, the Hearing Officer's determination shall be in the form of a recommendation upon which the City Administrating Officer shall determine appropriate action.

E. Appeal: Pursuant to KRS 241.200 all orders of the City Administrating Officer may be appealed to the Alcoholic Beverage Control Board.

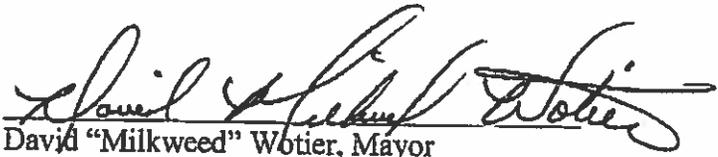
F. Referral to ABC: In lieu of the hearing authority provided above, allegations of violations of this Ordinance may be referred to the Alcoholic Beverage Control Board for determination.

SECTION VI

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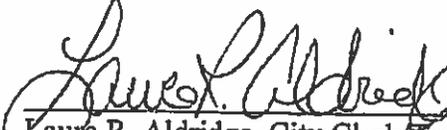
SECTION VII

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City of Owenton, Kentucky

ATTEST:



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