

ORDINANCE NO. 15 - 2015

AN ORDINANCE OF THE CITY OF BEREА, KENTUCKY PROVIDING THAT THE CODE OF ORDINANCES OF THE CITY OF BEREА BE AMENDED BY REVISING SECTIONS 56.001 - 56.003 AND 56.005, PROVIDING FOR THE LICENSING AND REGULATION OF CERTAIN RESTAURANTS AND DINING FACILITIES FOR THE LIMITED SALE OF ALCOHOLIC BEVERAGES.

WHEREAS, pursuant to the provisions of Ordinance No. 12-2012, and KRS 242.1242, and pursuant to a local option election on April 3, 2012, which election approved limited sales of alcoholic beverages at qualified historic sites in the East Bereа Precinct, the City Council authorized limited sales of alcoholic beverages at qualified historic sites in such precinct; and

WHEREAS, pursuant to Ordinance No. 12-2012, the City Council adopted regulations licensing such sales along with any other administrative regulations necessary for the enforcement or administration of that Kentucky Alcoholic Beverage laws; and

WHEREAS, a local option election was conducted pursuant to KRS 242.1244 on September 29, 2015, which election approved limited sales of alcoholic beverages at restaurants seating a minimum of fifty (50) persons and deriving a minimum of seventy percent (70%) of gross receipts from the sale of food; and it is the responsibility of the City to amend its existing regulations to assure the sale of alcoholic beverages in certain restaurants consistent with such election and legislative intent;

NOW, THEREFORE, the City Council of the City of Bereа, Kentucky, does ordain as follows:

SECTION ONE

That the Code of Ordinances of the City of Bereа, Kentucky, be amended by revising §§ 56.001-56.003 and 56.005 of the Bereа City Code, such Sections to read as follows:

CHAPTER 56: ALCOHOLIC BEVERAGE REGULATION

§ 56.001 PURPOSE

This Ordinance is adopted to regulate the sale of alcohol pursuant to KRS 242.1242 and KRS 242.1244 in such manner as to effectuate the legislative intent permitting limited sales of alcoholic beverages in qualified historic sites and in certain restaurants and dining facilities seating a minimum of fifty (50) persons and deriving a minimum of seventy percent (70%) of gross receipts from the sale of food.

§ 56.002 APPLICATION REVIEW

No alcoholic beverage shall be sold in the City, except as authorized under KRS 242.1242 and KRS 242.1244 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 receipt, and approval of an application by the Kentucky Alcoholic Beverage Control Board (hereafter "ABC") in accordance with applicable law, and the issuance of a license by the ABC.

Application submittal and review shall be conducted as follows:

a) Application and Fees.

i) Persons requesting approval and a license authorizing the limited sale of alcoholic beverages in qualified historic sites pursuant to KRS 242.1242, or limited sales of alcoholic beverages at restaurants seating a minimum of fifty (50) persons and deriving a minimum of seventy percent (70%) of gross receipts from the sale of food pursuant to KRS 242.1244, and this Ordinance shall submit a completed application to be obtained from the Office of the City Administrator. The Office of the City Administrator shall determine the form of this application and the information required by it, which shall be reasonably calculated to permit a

reviewing officer to determine compliance with this Ordinance, and in the form approved and accepted by the 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.

ii) Applicants for a license under this Ordinance shall pay a license fee equal to the maximum pursuant to the provisions of KRS 243.070 and KRS 243.075.

b) Administrating Officer. The City Officer responsible for administering this ordinance shall be the City Administrator, or such employee as the Mayor shall designate. All transactions required for compliance or enforcement of this Ordinance shall be directed to or issued by the City Administrator, or the employee designated by the Mayor. He or she shall review the applications along with supplemental information and issue licenses authorizing the limited sale of alcoholic beverages at qualified historic sites or limited sales of alcoholic beverages at restaurants seating a minimum of fifty (50) persons and deriving a minimum of seventy percent (70%) of gross receipts from the sale of food pursuant to this Ordinance. The City's Administrator Officer and employees with duties arising under this Ordinance shall comply with KRS 241.180 and 190.

c) Forms. All forms reasonably necessary for the implementation of the Ordinance shall be provided by the City Administrator.

§ 56.003 ISSUANCE AND RENEWAL OF LICENSES

a) Issuance. Upon satisfactory compliance with all City imposed requirements, the City's Administrating Officer shall sign an acknowledgment of that compliance. The ABC shall rely upon that acknowledgment and may review the application for statutory compliance. 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 limited sale of alcoholic beverages at qualified historic sites or limited sales of alcoholic beverages at restaurants seating a minimum of fifty (50) persons and deriving a minimum of seventy percent (70%) of gross receipts from the sale of food 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 \$100.00.

§ 56.005 OPERATIONAL REGULATIONS AND DEFINITIONS

(a) Hours of Operation. No licensee operating pursuant to this article shall be open for business earlier than 6:00 a.m., or later than 12:00 midnight; nor shall any licensee for limited restaurant sales serve any alcoholic beverages on Sunday before 1:00 pm.

(b) A restaurant bar is permitted as long as it is operated in connection with a restaurant and by the same owner or management. A restaurant bar must be directly connected with such dining room and must be only a service bar for patrons of the restaurant. Stools shall be permitted at such bar, and alcoholic beverages must be sold by the drink with a meal only from such bar. No package goods shall be sold from such bar, nor shall a package store be permitted upon the premises. More than one dispensing bar shall be permitted to be operated at such location in connection with such dining room. The sale of alcoholic beverages is prohibited except during the time the restaurant is actually engaged in and open to the public for the serving of meals.

(c) Definitions. For purposes of limited restaurant sales, the following definitions shall apply:

(1) Meal: The portion of food taken at one time to satisfy appetite." Webster's New Collegiate Dictionary, page 712 (1976). " Department of Revenue v. To Your Door Pizza, Inc., 670 S.W.2d 482, 484 (Ky. App. 1983).

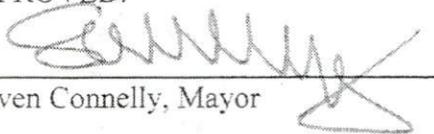
SECTION TWO

All ordinances or parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall be recorded in the Office of the Madison County Clerk and be published according to law.

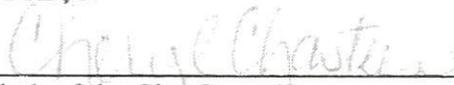
FIRST READING: October 20, 2015.

SECOND READING & ENACTMENT: November 17, 2015.

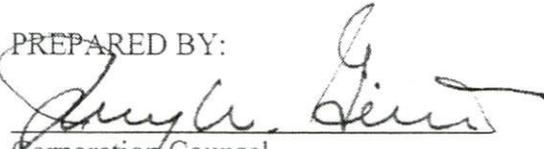
APPROVED:


Steven Connelly, Mayor

CITY OF BERA, KENTUCKY
ATTEST:


Clerk of the City Council

PREPARED BY:


Corporation Counsel

ORDINANCE NO. 18 -12

AN ORDINANCE OF THE CITY OF BEREAS, KENTUCKY, ESTABLISHING SERVER TRAINING FOR ALCOHOL LICENSE HOLDERS IN THE CITY OF BEREAS.

WHEREAS, the City of Berea desires to promote responsible serving of Alcoholic Beverages in the City, and

WHEREAS, a Server Training Program would benefit the citizens of Berea and would help in the responsible serving of alcoholic beverages.

NOW, THEREFORE, the City Council of the City of Berea, Kentucky, does ordain as follows:

SECTION ONE

That the Code of Ordinances of the City of Berea, Kentucky, be amended by adding §55.020, so that such Sections shall read as follows:

§ 55:020 ALCOHOL SERVER TRAINING REQUIRED

SECTION ONE

(1) All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed by the city 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 are to complete a responsible beverage service training class approved by the city. This shall not apply to any manufacturer of alcoholic beverages is defined in KRS 241.010(29) or any other person, corporation, association, business or other entity licensed for the wholesale of alcoholic beverages.

(2) "Server" For purposes of this ordinance shall mean any person employed or working in any capacity, whether as an employee, volunteer help or as a working proprietor, in any premise licensed for the sale of alcoholic beverages by retail sale and/or dispersed by the drink or where malt beverages are sold by retail or by the drink and whose job duties include the sale, dispersing or service of alcoholic beverages on the management of the licensed premises; provided, however, no person working at a special event for which a temporary alcoholic beverage license has been approved shall be required to comply with this Ordinance.

(3) **Training; standards for certification:** All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed or employed in the sales and service of alcoholic beverages, including the retail sale of alcoholic beverages by the package or drink, shall participate in and complete a mandatory responsible beverage service training program approved by the city. Before approval is granted, the city shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents as well as the human characteristics of alcohol intoxication.

(4) No person shall be employed by a licensed premise as a server unless the server has successfully completed a city approved alcoholic beverage server training program. This training program shall be completed for all newly hired servers within thirty (30) days of the first date of employment.

(5) Licensees, employees, officers or agents who fail to complete the mandatory responsible beverage service training within the prescribed time shall not sell or serve alcoholic beverages on the licensed premises until they have successfully completed the required training. Servers successfully completing the training shall receive a server certification from the server-training program. Each server shall successfully complete a new server-training program to be re-certified not less than once every three (3) years.

(6) No licensed premise in which alcoholic beverages are sold by retail sale or consumed by the drink or malt beverages are sold for consumption on the premises or retail sale shall allow any server employed over thirty (30) days to sell, dispense or service any alcoholic beverage or malt beverages or to manage any such licensed premises unless that server is the holder of a current server certification. This includes all holders of an alcohol and/or malt beverage license.

(7) Each such licensed premise shall maintain a file at the licensed premise for each such server for whom training is required. The file shall contain the name, job description, date of employment and proof of certification of each server regulated by this Ordinance. This information shall be available during hours of operation to any alcoholic beverage control officer or any police officer. Training records shall be retained by the licensee for a minimum of one(1) year.

(8) (A) Any person who sells and/or serves alcoholic beverages in a licensed establishment shall participate in and successfully complete a responsible beverage service-training program approved by the City of Berea. 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.

(B) For a responsible beverage service-training program to be approved by the city, it must effectively train its participants in the following:

(i) Applicable federal laws, state statutes and regulations and local ordinances regarding the sale of alcoholic beverages;

- (ii) Verification of age forms of identification and methods of recognizing false or misleading age documents;
- (iii) The effect of alcohol on humans and the physiology of alcohol intoxication;
- (iv) Recognition of the signs or characteristics of alcohol intoxication;
- (v) Strategies for intervention and preventing underage and intoxicated person from consuming alcoholic beverages; and
- (vi) Potential liability for persons selling or serving alcoholic beverages.

(9) Penalties.

(A) No person, corporation, association, restaurant, business, club or other entity holding a license for the sale of distilled spirits, wines and/or malt beverages by the package or drink shall intentionally, willfully, knowingly, or wantonly authorize, direct, permit, allow or cause any employee, officer or agent of the licensee who has not completed the mandatory service training required, to sell or serve any alcoholic beverages to anyone on the licensed premises.

(B) Any person, corporation, license, association, restaurant, business, club or other entity or any employee thereof, found to be in violation of any subsection of this section, shall upon conviction thereof, be fined in any amount not to exceed one hundred dollars (\$100.00); for subsequent violations within a two-year period and upon conviction thereof, a fine not to exceed five hundred dollars (\$500.00). Each day a violation occurs shall constitute a separate offense. The provisions of this Ordinance may be enforced pursuant to the provisions of

(C) If a person who violates any provision of this Ordinance is a Corporation, Partnership, Joint Stock Company, Association or Fiduciary, then the president and/or the principal officer or partner responsible for such violations may be fined as authorized by this section § 55.005 of this Code.

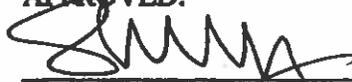
SECTION TWO

All ordinances or parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall be effective on the 4th day of December, 2012, and shall be published according to law.

FIRST READING: November 20, 2012.

SECOND READING & ENACTMENT December 4, 2012.

APPROVED:



Steven Connelly, Mayor

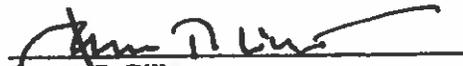
CITY OF BERA, KENTUCKY

ATTEST:



Cheryl Chasteen
Clerk of the City Council

PREPARED BY:



James F. Gilbert
Corporation Counsel