

LA CENTER ALCOHOL ORDINANCE
CHAPTER 132

A MUNICIPAL ORDER APPOINTING THE ABC
ADMINISTRATOR FOR THE CITY OF LACENTER

- BE IT ORDERED BY THE CITY OF LACENTER, KENTUCKY:
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SECTION 1. Pursuant to Section 5 of the Alcoholic Beverage Control Ordinance of the City of LaCenter (Ordinance No. 2017 - 131), the Honorable Jamie Hack, Mayor of the City of LaCenter, hereby appoints Herbert Hendrickson as the City ABC Administrator. Before assuming duties as ABC Administrator, he shall take the oath of office 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 \$1,000, the cost of which shall be paid by the City. This designation will continue until such time as it is expressly revoked by the Commission or by operation of law.

SECTION 2. The office of City ABC Administrator shall be a part-time position based upon the needs of the City in the administration of the LaCenter ABC Ordinance. Part-time shall constitute at least 4 hours per workweek. The annual salary of the Office of City ABC Administrator shall be \$ 0.

SECTION 3. This Order will be in full force and effect from and after the date of its adoption.

Jamie Hack
Mayor Jamie Hack

ATTEST:

Tracy Dodge
Tracy Dodge, City Clerk

Adopted by the Board of Commissioners, February 14, 2017
Recorded by City Clerk, February 14, 2017

**CITY OF LACENTER
ORDINANCE NO. 2017 - 131**

AN ORDINANCE OF THE CITY OF LACENTER ADOPTING REGULATIONS FOR THE MANUFACTURE, TRANSPORTATION AND SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF LACENTER; ESTABLISHING LOCAL LICENSES REQUIRED FOR PERSONS OR ENTITIES ENGAGING IN SUCH ACTIVITIES; AND PROVIDING PROCEDURES FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE

WHEREAS, pursuant to a local option election held on December 20, 2016, a majority of the eligible voters who are residents of the City of LaCenter (hereinafter referred to as the "City") voted to allow the sale of alcoholic beverages within the City; and

WHEREAS, based on the results of such election, the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as the "ABC Board") shall reclassify the City as a wet territory and begin issuing licenses for the manufacture, transportation, and sale of alcoholic beverages within the City on February 18, 2017; and

WHEREAS, the City Commission has determined that the following ordinance is necessary and proper for regulating the manufacture, transportation, and sale of alcoholic beverages within the boundaries of the City of LaCenter.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LACENTER as follows:

SECTION 1: PURPOSE AND TITLE

The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture, transportation, and sales pursuant to KRS Chapters 241-244.

This ordinance shall be known as the "Alcoholic Beverage Control Ordinance" of the City of LaCenter.

SECTION 2: DEFINITIONS

The definitions of the words used throughout this ordinance, unless the context otherwise requires, shall have the same meaning as those set out in the State Alcoholic Beverage Control Law (KRS Ch. 241, 242, 243, and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

SECTION 3: **SCOPE**

- This ordinance shall apply to the manufacture, transportation, and sale of malt beverages, wine, and distilled spirits on any premises or establishment within the City. Such activities shall also be governed by any and all applicable state laws, regulations, and procedures as well as the requirements for a license issued by the ABC Board. The provisions of this Ordinance shall apply to all persons, firms, companies, corporations, other entities, licensees, premises, and establishments within the City to the fullest extent such application is delegated to the City, or otherwise authorized, by the provisions of KRS Ch. 241 through 244. Nothing in this ordinance shall excuse or relieve a licensee, its agent, or any employee of a licensee, from the restrictions, requirements, and penalties of any other ordinance or ordinances of the City or any statute or regulation of the Commonwealth of Kentucky pertaining to alcoholic beverages.

- The provisions of KRS Chapters 241, 242, 243, and 244 and all amendments and supplements thereto, are adopted and fully incorporated herein to the extent applicable to this Ordinance.

SECTION 4: **LICENSES**

- (A) No person, firm, company, corporation or other entity shall sell dispense, have in possession for sale, manufacture, transport, or traffic in alcoholic beverages within the City without first having applied for in writing and having been issued a license under the provisions of this Ordinance and all statutes and regulations of the Commonwealth of Kentucky with respect to the Alcoholic Beverage Control Law (KRS Chapters 241, 242, 243, and 244) and all amendments and supplements thereto.

- (B) Under this Ordinance, a license shall be issued by the City only to those applicants that qualify for licenses applicable to the City pursuant to KRS Chapter 243. Whenever any person or entity seeks a license from the ABC Board to sell, manufacture and/or traffic in alcoholic beverages within the City pursuant to the provisions of KRS Chapter 241 through 244, such State applicant shall also apply in writing to the City for an applicable City license for the privilege of selling, manufacturing and/or trafficking in alcoholic beverages within the City.

- (C) City license fees, whether primary or supplemental, shall be assessed in accordance with KRS 243.070 and Section 13 of this Ordinance. Regulatory license fees shall be assessed in accordance with KRS 243.075

and Section 20 of this Ordinance.

SECTION 5: ABC ADMINISTRATOR

- The Office of City Alcoholic Beverage Control Administrator (hereinafter referred to as “City ABC Administrator”) is hereby established in accordance with KRS 241.160. Subject to the approval of the City Commission, the Mayor shall appoint the City ABC Administrator and may also appoint one or more assistant ABC Administrators. The term “City ABC Administrator” as used in this ordinance shall also include any assistant ABC Administrator(s).
- The City ABC Administrator may from time to time appoint such additional personnel as is necessary to assist him or her in the administration of this Ordinance.
- The salary of the City ABC Administrator, if any, together with the salaries of any other personnel assisting the City ABC Administrator, shall be fixed from time to time by the City Commission.
- The functions of the City ABC Administrator shall be the same with respect to the City licenses and regulations, as the functions of the ABC Board with respect to state licenses and regulations.
- No person shall be a City ABC Administrator, an Assistant 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 KRS 241.100.
- The City ABC Administrator shall have all powers and duties authorized for such office under KRS Chapter 241 through 244.
- Should the City ABC Administrator at any time have probable cause to believe that any applicant, licensee, employee of a licensee or any stockholder, agent or employee of a licensed corporation or company, has a criminal record, he or she shall have the authority to require such person to appear in person at the City Police Department for the purpose of having his or her fingerprints taken.
- The City ABC Administrator, before entering upon his or her duties as such, shall take the oath of office 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 \$1,000, the cost of which shall be paid by the City.

- (1) Appeals from the orders of the City ABC Administrator may be taken to the ABC Board by filing with the ABC Board within 30 days a certified copy of the orders of the City ABC Administrator.
- (2) Matters at issue shall be heard by the ABC Board as upon an original proceeding.
- (3) Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

SECTION 6: HOURS FOR SALE AND DELIVERY

- A licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages Monday through Sunday between the hours of 6:00 a.m. and 12:00 midnight.
- All delivery of alcoholic beverages in the City shall be made between the hours of 6:00 a.m. and 12:00 midnight, Monday through Saturday. No delivery shall occur on Sunday.
- The licensee may sell and dispense distilled spirits, wine and/or malt beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs; provided that, the appropriate licenses have been obtained from both the City and the State ABC Board.

SECTION 7: CONDITIONS, PROHIBITIONS AND RESTRICTIONS

- 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 are prohibited and shall not be kept on such premises.
- (1) It shall be unlawful for any licensee under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in the County as it is now or may hereafter be operated.
- (2) In addition to other penalties provided for the violation of this Ordinance, the Chief of Police or the City ABC Administrator or any investigator or officer designated by either of such persons, shall have the

authority to confiscate any and all such radio receiving apparatus.

- All licenses shall be required to take precautions and implement measures reasonably necessary to discourage unlawful activity in and around the licensed premises. Accordingly, the licensee shall be responsible for maintaining security on the licensed 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.
- It shall be unlawful for any holder of a license to sell malt beverages to offer or give anything of value as a premium, gift, or prize for any purpose in connection with the sale of malt beverages, except as otherwise permitted under KRS 244.500 or other state law or regulation.
- No quota retail package license shall permit any alcoholic beverages to be consumed on the licensed premises, unless the licensee also holds a license authorizing such on-premises consumption.
- No licensee, agent, or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.
- The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.
- The licensee shall display at all times in a prominent place a sign at least 8 inches by 11 inches in 30 point or larger type which states as follows:

“Personals under the age of Twenty-One (21) are subject to a fine of up to One Hundred Dollars (\$100.00) if they:

 - Enter licensed premises to buy, or have served to them, alcoholic beverages.
 - Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
 - Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.”
- (1) The licensee, before commencing any business for which a license has been issued, shall post and display the license 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.

(2) 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.

- The licensee shall post in a prominent place easily seen by patrons a printed sign at least 11 inches by 14 inches in size with letters at least one (1) inch high, supplied by the ABC Board, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.
- No brewer or distributor shall sell any malt beverages to any person in the City for any consideration except cash or cash equivalent paid at or before the time of delivery, except as permitted by KRS 244.040. Nor shall any retail licensee sell to any person for any consideration except for cash or cash equivalent at time of purchase.
- (1) No licensee shall knowingly employ in connection with his or her business any person who:
 - Has been convicted of any felony within the last two years, unless allowed by KRS 244.090(2);
 - Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two years, unless allowed by KRS 244.090(2);
 - Is under the age of 18 years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under statute; or
 - Has had any City license under this Ordinance revoked for cause within two (2) years prior to the date of his or her employment.
- Violation of this subsection (L) shall subject both employer and employee to the penalties provided in this Ordinance and shall be cause for revocation of all licenses.

SECTION 8: **ENFORCEMENT; INVESTIGATION; AND**
INSPECTION OF PREMISES

- City Police Officers and the City ABC Administrator or Assistant ABC Administrator(s) are authorized and directed to enforce this Ordinance for alleged violations.
- The City ABC Administrator or Assistant ABC Administrator(s) along with any authorized law enforcement officer, may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked.

SECTION 9: MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

- All persons employed in the selling and serving of alcoholic beverages by the drink shall participate in and complete the Kentucky Department of Alcoholic Beverage Server Program (S.T.A.R) or responsible beverage service training from a program approved by the ABC Board.
- All persons required to complete training under division (A) above shall complete training within 60 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 ABC Board, not less than once every three (3) years thereafter.
- A licensee employing any person(s) required to complete S.T.A.R. training shall be responsible for ensuring compliance with training requirements and shall maintain a record for inspection by the City ABC Administrator for each such employee which shall contain information necessary to verify such compliance.

SECTION 10: SIGNS AND ADVERTISING

- All signage shall be in compliance with any and all requirements of the City Zoning Ordinance and any other applicable rules and regulations of the City.
- Any Advertising by any licensee under this Ordinance shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

SECTION 11: PATIO AND OUTDOOR SALES ALLOWED

Restaurant and hotel licensees under this Ordinance are allowed to make licensed sales of alcoholic beverages on patios and other outdoor locations so long as such activities are conducted upon the licensed premises and under the exclusive

possession and control of the licensee.

SECTION 12: KEG REGISTRATION

- As used in the section, “keg” is defined as a container designed and capable of holding six (6) or more gallons of malt beverage.
- All retail licensees selling malt beverages in kegs for consumption off of the licensed premises shall attach a control label. The label must display a control number and the name of the licensee, and must be affixed to the keg at the time of sale. At the time of such sale, the licensee shall require the purchaser to complete and sign a keg registration form for the keg stating:
 - The purchaser is of legal age to purchase, possess and use the malt beverage;
 - 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;
 - The purchaser will not remove, obliterate or allow to be removed or obliterate the control label;
 - The property address where the keg will be consumed and physically located; and
 - 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.
- 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 generally accepted and reliable form of identification.
- 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 law enforcement officers.
- The keg registration form shall be forwarded to the City ABC Administrator within five (5) business days in all situations when the keg is not returned or is returned with the control label removed or obliterated.

- The City ABC Administrator is authorized to develop appropriate registration forms and to develop and to make those forms available to licensees.
- 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.
- It shall be unlawful for any licensee to sell or offer for sale kegs without the control labels attached and the keg registration form completed. It also shall be unlawful for any person to remove or to obliterate the control label or to fail to have the required notice visible and readily accessible from the location of the keg.

SECTION 13: FEES; APPLICATION

- Before an application 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 Chapter 424.
 - (1)(a) The advertisement shall state the name and addresses of the individual applicant, or members of a partnership or limited liability company if the applicant is either, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal officers and directors of the corporation, as well as the name and addresses of the corporation itself, 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, along with a non-refundable application fee of Fifty Dollars (\$50.00).
- (2) All licenses granted under this Ordinance shall be approved by the City ABC Administrator. Applicants for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board or the City ABC Administrator, as amended and supplemented from time to time
- (3)(a) The application shall be verified by the signature of the applicant or its authorized agent and shall contain all information required by the KRS Chapters 241-244, 804 KAR Chapters 1-14, the ABC Board, and this Ordinance, including, but not limited to, the following:
 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 the state. If a city resident, indicate when residence was established;
 6. Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this Ordinance;
 7. Extent of stock ownership; and
 8. Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.
- (b) Each application shall be accompanied by a certified or cashier's check, or a postal money order for all fees.
- (4) 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.
 - (5) All City license applications shall be on the form prescribed by the City and shall contain:
 - The name and address of the licensee;
 - The number of license;
 - The type of license;
 - A description by street and number, or otherwise, of the licensed premises;
 - The name and address of the owner of the building in which the licensed premises are located;
 - The expiration date of the license; and
 - 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 the law.
 - (6) All licenses approved by the City ABC Administrator and issued

by the City shall begin on February 1 of any year and shall expire on January 31 of the following year.

- (7) 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. The renewal application shall be accompanied by a renewal application fee of fifty dollars (\$50.00).
 - (8) The yearly license term is February 1 to January 31. Any licenses issued after February 1 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 that for a period of six (6) months.
 - (9) In the event a violation of this Ordinance occurs that requires or allows the revocation of a license, the City shall not be required to refund or forgive any portion of the license fee(s) paid or payable for the license so revoked.
- (B) There hereby is imposed upon each holder of a license to manufacture and/or traffic alcoholic beverages, under any provision of KRS Chapter 241 through 244, a license fee for the privilege of manufacturing and/or trafficking in alcoholic beverages within the City as follows:
- 1. Distilled spirit license 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) Wholesaler's license, per annum \$3,000.00
 - (d) Quota Retail package license, per annum \$1,000.00
 - 2. Special temporary license, per event \$ 166.66
 - 3. Non-quota type 1 retail drink license, per annum \$2,000.00
 - 4. Non-quota type 2 retail drink license, per annum \$1,000.00
 - 5. Non-quota type 3 retail drink license, per annum \$

300.00	6.	Distilled spirits and wine special temporary auction License, per event	\$
200.00			
300.00	7.	Special Sunday retail drink license, per annum	\$
\$2,000.00	8.	Extended hours supplemental license, per annum	
800.00	9.	Caterer's license, per annum	\$
	10.	Bottling house or bottling house storage license, per annum \$1,000.00	
	11.	Malt beverages licenses as follows:	
500.00		(a) Brewer's license, per annum	\$
500.00		(b) Microbrewery license, per annum	\$
400.00		(c) Malt beverage distributor's license, per annum	\$
		• Non-quota retail malt beverage package license, per annum 200.00	\$
		• Non-quota type 4 retail malt beverage drink license, per annum 200.00	\$
		(f) Malt beverage brew-on-premises, per annum 100.00	\$
	12.	Limited restaurant license, per annum	

\$1,200.00

13. Limited golf course license, per annum
\$1,200.00

14. The fee for each of the first five (5) supplemental bar license shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

15. The holder of a non-quota retail malt beverage package license may obtain a Non-quota type 4 malt beverage drink license for a fee of fifty dollars (\$50.00). The holder of a Non-quota type 4 malt beverage drink license may obtain a non-quota retail malt beverage package license for a fee of fifty dollars (\$50.00).

(C) The City ABC Administrator shall transmit fees upon collection to the City Clerk to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board of the expiration or exhaustion of the right to appeal or protest the application for such license pursuant to the provisions of KRS 243.360, and notice of the approval of such license application by the ABC Board.

SECTION 14: REFUND OF LICENSE FEE

Should any licensee under this Ordinance be prohibited from conducting said business, for the full period covered by the license because of any changes that may hereafter be made in the laws of the State with reference to alcoholic beverages or other cause outside licensee's control then the City shall refund to it the proportionate part of the license fee for the period during which it 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, agent or employee of the licensee.

SECTION 15: 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 or Assistant ABC Administrator after he or she shall be satisfied as to the facts; provided, however, that the person applying for the duplicate license shall pay a fee of ten dollars (\$10) for issuing said

duplicate.

SECTION 16: **REVOCAION OR SUSPENSION HEARING**

- Any license may be revoked or suspended by the City ABC Administrator or, subject to approval of the City ABC Administrator, such licensee may pay a sum for part or all of the days of any suspension period in lieu of suspension in accordance with the schedule set forth in Paragraph (E) of this section, if the licensee shall have violated any of the provisions of KRS Chapter 231, 242, 243, or 244, or any rule or regulation of the ABC Board or of the Department of Revenue relating to the regulation of the manufacture, sale, 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 of any rules or regulations of the City heretofore in existence or authorized by the terms of KRS Chapter 241, 243, and 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his or her sound discretion deems sufficient.

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

- In addition to the foregoing grounds for revocation or suspension, any license may be revoked or suspended for the following causes:
 - Conviction of the licensee or his or her agent or employee for selling any illegal beverages;
 - Making any false material statements in an application for a license;
 - If, within a period of two consecutive years, any licensee or any of his or her clerks, servants, agents, or employees of the licensee shall have been convicted of two violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or, if during such a period, any licensee or any of the clerks, servants, agents, or employees 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 such felony and one such misdemeanor;

- 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; and/or
- 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, devise, machine, contrivance, lottery, gift enterprise, handbook or facility.
- Failure to pay when due any tax imposed by the City.

(D) In the event a citation for violation of any provision of this ordinance is issued, notification of the alleged violation shall be served in writing on the licensee by delivering a copy to the licensee's place of business in the City and by mailing a copy by US Mail, postage prepaid, to the licensee's address as shown on the application for a license, giving notice that licensee may, within seven (7) days of the date of the notification, request an administrative hearing before the City ABC Administrator to determine the existence of a violation. The hearing shall be a trial type hearing with all parties having a right to counsel and all witnesses subject to cross-examination.

After the hearing is concluded within thirty (30) business days, the City ABC Administrator shall issue a findings of fact and decision.

Appeals from the decision of the City ABC Administrator shall be to the ABC Board within thirty (30) days from the date of the City ABC Administrator's decision.

(E) In the event of the payment of a monetary penalty in lieu of suspension, the monetary penalties shall be:

- | | |
|--|----------------|
| 1. Distillers, rectifiers, wineries, and brewers
day | \$1,000.00 per |
| 2. Wholesale liquor licenses
day | \$ 400.00 per |
| 3. Distributor beer licensees
day | \$ 400.00 per |
| 4. Retail licensees authorized to sell distill spirits, wine | |

or beer by the package or drink day	\$ 50.00 per
5. All remaining licenses day	\$ 50.00 per

SECTION 17: **NOTICE TO LICENSEE; SURRENDER OF
LICENSE; HEARING**

- (A)1. Within three days after any order of revocation 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.
- 2. The licensee shall at once surrender his or her license to the City ABC Administrator.
- 3. If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the City ABC Administrator or the Assistant 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.
- (B) When a license has been revoked, 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.
- (C) Appeals from the decisions of the City ABC Administrator shall be to the ABC Board.
- (D) If a license is revoked or suspended by an Order of the City ABC Administrator, the licensee shall at once suspend all operations authorized under his or her license.

SECTION 18: **REFUSAL OF LICENSE**

The City ABC Administrator or Assistant ABC Administrator may refuse to issue or renew a license for any of the following reasons:

- 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;

- If the applicant has done any act for which a revocation of license would be authorized;
- If the applicant has made any false material statement in his or her application.
- Failure to pay taxes (See KRS 243.490(2)).

Appeals from the decisions of the City ABC Administrator under this section shall be to the ABC Board.

SECTION 19: REVIEW OF LICENSE

Applicants to whom a license is issued which require certain food sales percentages shall provide periodic information demonstrating compliance with the continuing requirement that the required 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 monthly regulatory fee filings, in the event the food requirement is 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 year in determining whether or not the minimum food requirement has been met.

SECTION 20: REGULATORY LICENSE FEE

- Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee upon the gross receipts of each and every person or entity licensed by the City ABC Administrator. The initial regulatory license fee shall be 6% of gross sales of alcoholic beverages.
- Payment of such regulatory fees shall be remitted to the City Clerk, and shall be held in a separate account maintained for the purpose of fully reimbursing the City for any estimated costs of any 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 taxes, 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 licenses or fees imposed by the City pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the fee returns approved for such use by the City Commission. These returns and payments are due no later than the end of each month.
- Failure to pay such monthly remittance within ten (10) days of the due date

constitutes a violation and subject's licensee to suspension or revocation.

- Penalty for failure to file a return and pay monthly remittance by the due date is 5% of the fee due for each 90 days or fraction thereof. The total late filing penalty shall not exceed 25% of the fee due; provided, however, that, in no one case shall the penalty be less than \$10.
- Interest at the rate of 8% per annum will apply to late payments.
- Annually, effective July 1 of each year commencing in 2017, the City Commission shall review and establish the regulatory license fee for the ensuing year so as to conform to the requirements of this ordinance and KRS 243.075.

Prior to establishing the regulatory license fee, the Mayor shall cause the City's Auditor to audit regulatory license fee account to insure compliance with KRS 243.075, and in conjunction with the City Clerk, to recommend, based upon the experience of the prior year, a fee rate for the ensuing year.

The Auditor shall report his/her findings to the City Commission and in addition to the regulatory license fee, recommend any action he/she deems necessary to insure compliance with KRS 243.075.

SECTION 21: CHANGE OF INFORMATION

- If a license issued by the City is in the name of a corporation, it is necessary that stock ownership changes in such corporation be reported to the City ABC Administrator. The City ABC Administrator can therefore, investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.
- As used herein the word CHANGE is construed to include any change in directors or officers of the corporation, or change in ownership of stock whereby any person secures 10% of the outstanding stock. Transfer of more than 10% of the total stock shall require a new license.
- The following information will be required concerning any new director, officer, or person securing any interest in alcoholic beverage license:
 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 the state. If a city resident, indicate when residence was established;
6. Whether or not he or she has any interest in any other license or Corporation or Partnership holding a license under this act;
7. Extent of stock ownership; and
8. Whether or not he or she has any interest in any license or Corporation or partnership holding a license in any other state or province.

This information shall be filed with the City ABC Administrator as an amendment of the application pursuant to which the license was granted.

SECTION 22: DORMANCY

- It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.
- Any license under which no substantial business is transacted during a period of ninety (90) days, or repeated shorter periods, shall be considered dormant and rescinded by the City ABC Administrator. For purposes of the preceding sentence "no substantial business" means either no alcohol beverage transactions during the ninety (90) day period in question, or by using comparable data, the City ABC Administrator determines in his or her discretion that the license is being underutilized such that sales for such period(s) are twenty percent (20%) or more below expected sales for such period(s) and such deficiency is not caused by circumstances otherwise excused by this ordinance. Comparable data available to the City ABC Administrator may include, but not be limited to, sales data from comparable businesses and past sales data of the licensee in question. Upon a determination of dormancy by 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.
- The provisions of division (A) above 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, or the acquisition of the premises by any federal, state, city or other government agency under power of eminent domain (whether the acquisition is voluntary or involuntary), or loss of lease through failure of landlord to renew existing

lease. 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 prior to the expiration of ninety (90) days of inactivity, for any of the reasons set forth herein, and, the City ABC Administrator may grant an extension of the dormancy for such period as the Administrator, in his sole discretion, deems reasonable, advisable and warranted, 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 thereunder within 12 months from the date of notice of 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 discretion.

- All renewal licenses must be on file with the City ABC Administrator within Thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be cancelled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license prior due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; 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 for 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.

SECTION 23: APPROVAL OF PREMISES

The City ABC Administrator or Assistant ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of license until said applicant and his or her place of business shall pass any and all other inspections required by the Kentucky Building Code.

SECTION 24: DELINQUENT TAXES OR FEES

- No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the

licensee upon which there are any delinquent taxes or fees due the City.

- Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

SECTION 25: BOOKS, RECORDS, REPORTS

- 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 to 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.
- The original records of the City ABC Administrator shall be kept in the office of the City Clerk. The City ABC Administrator shall maintain a copy of those records in his or her office.
- 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.

SECTION 26: COST OF ADDITIONAL POLICE PROTECTION FOR TEMPORARY EVENT

If it is deemed necessary in the discretion of the City ABC Administrator, the licensee may be required as a condition of receiving a special temporary license, to contract directly with the City (by and through the City Police Department), at the expense of the licensee, to provide adequate security for the qualifying event.

SECTION 27: IMPLEMENTATION

From time to time, the City Commission may by resolution or order promulgate such rules and regulations and may publish and utilize such forms and other documents as, in its discretion, may be necessary for the proper implementation of this Ordinance.

SECTION 28: SEVERABILITY

If any section, sentence, clause or portion of this Ordinance is for any reason declared illegal, unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions thereof.

SECTION 29: EFFECTIVE DATE

This Ordinance is effective upon final reading and publication.

SECTION 30: CONFLICTS

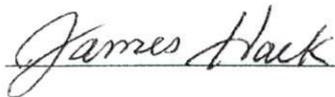
All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed and the provisions of this ordinance shall prevail and be given effect.

SECTION 31: COMPLIANCE WITH OPEN MEETINGS LAWS.

The City Commission hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this City Commission, and that all deliberations of this City Commission and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

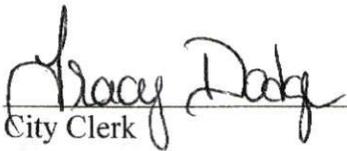
SECTION 32: EFFECTIVE DATE

This Ordinance shall be read on two separate days and will become effective upon summary publication pursuant to KRS Chapter 424.



MAYOR, CITY OF LACENTER, KENTUCKY

ATTEST:



City Clerk

Introduced by the City Commission, February 7, 2017

Adopted by the City Commission, February 14, 2017

Recorded by City Clerk, February 14, 2017

Published by Advance Yeaman February 21, 2017