

ORDINANCE NUMBER 09-17-2012-1
(as amended by ORDINANCE NUMBER 12-02-2013-1)

ALCOHOLIC BEVERAGE CONTROL ORDINANCE
OF THE
CITY OF PRINCETON, KENTUCKY

WHEREAS, the City Council of the City of Princeton, Kentucky, desires to adopt an ordinance regarding the regulation and control of the sale of alcoholic beverages within the City of Princeton, Kentucky;

THEREFORE, BE IT ORDAINED by the City Council of the City of Princeton, Kentucky, as follows:

SECTION 1: GENERAL PROVISIONS

1.01 **TITLE**

This Ordinance shall be known and may be cited as the Alcoholic Beverage Control Ordinance of the City of Princeton, Kentucky.

1.02 **INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED**

- (A) The provisions of the Kentucky Alcoholic Beverage Control laws contained in Kentucky Revised Statutes (KRS) Chapters 241, 242, 243 and 244, pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control law of the City of Princeton, Kentucky except as otherwise lawfully provided herein. As used herein "State" means the Commonwealth of Kentucky, and "City" means the City of Princeton, Kentucky.
- (B) Any violation of State law relating to the sale, production, storing, or otherwise trafficking in alcoholic beverages shall also constitute a violation of this Ordinance.
- (C) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this Ordinance and all State statutes and regulations applicable thereto.

- (D) All prohibitions, restrictions and regulations pertaining to alcoholic beverages contained in KRS Chapter 244 shall apply to alcoholic beverage use in the City.

1.03 SCOPE OF COVERAGE

- (A) This Ordinance shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine where the context permits such applications. Unless the context otherwise admits or requires, the term “alcoholic beverage” or “alcoholic beverages” shall mean and shall include distilled spirits, wine, and malt beverages.
- (B) Nothing contained in this Ordinance shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the City where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance or ordinances of the City or of any State statutes or regulations.

1.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS

All monies derived from license fees or from fines as provided in this Ordinance shall be paid to the City and become a part of the general funds of the City.

1.05 NOTICE TO STATE ABC BOARD OF FEES LEVIED

This Ordinance is and shall be subject to the provisions of KRS 243.610. The City Clerk shall give notice to the State Alcoholic Beverage Board of any fees or assessments levied under the provisions of this Ordinance.

SECTION 2: ADMINISTRATION

2.01 OFFICE OF ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR ESTABLISHED

- (A) Pursuant to KRS 241.160, the office of Princeton Alcoholic Beverage Control Administrator (“PABCA”) is created.
- (B) Pursuant to KRS 241.170, the PABCA shall be appointed by the Mayor, and such appointment shall be approved by the City Council. The PABCA shall serve at the pleasure of the Mayor.

2.02 **OATH; BOND**

Prior to entering upon the duties of the position, the PABCA shall take the oath prescribed in Section 228 of the Constitution of the Commonwealth and he/she shall execute a bond with a good corporate surety in the penal sum of not less than ONE THOUSAND AND 00/100 DOLLARS (\$1,000.00). Any city employee under the direct supervision of the PABCA shall execute a similar bond in such penal sum, as the PABCA may deem necessary

2.03 **CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR TO ENFORCE**

The PABCA shall have the power and authority to promulgate such regulations as may be necessary to implement and/or administer this Ordinance.

2.04 **FUNCTIONS; DUTIES AND POWERS**

- (A) The functions of the PABCA shall be the same with respect to City licenses and regulations as is the function of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to State licenses and regulations, except that no regulation of the PABCA shall be less stringent than the State statutes and regulations relating to alcoholic beverage control. No regulation of the PABCA shall become effective until it has been approved by the Board.
- (B) The PABCA shall have the same powers and duties with respect to suspension and revocation for cause of City licenses as the State Alcoholic Beverage Control Board has with respect to State licenses under KRS 241.060. The PABCA, on his or her own initiative, or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this Ordinance.

2.05 **ADMINISTRATOR TO HAVE POLICE POWER**

The PABCA and the PABCA's Investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the boundaries of the City. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

2.06 **RIGHT OF INSPECTION**

The PABCA shall have access at all reasonable times, for inspection, to all books and records required to be maintained by licensees under

KRS 244.150, and shall simultaneously receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

SECTION 3: LICENSING REGULATIONS

3.01 LICENSE TYPES

The following license types may be issued by the City; provided, however, that the number and type of licenses issued by the City shall be subject to the limitations and requirements imposed by the Kentucky Alcoholic Beverage Control laws and regulations, as may be amended from time to time:

License Types	Full Year	Half Year
	License fees	License fees
Quota Retail Package License (KRS 243.230)	\$600.00	\$300.00
NQ Retail Malt Beverage Package License (KRS 243.280)	\$200.00	\$100.00
NQ-1 Retail Drink License (KRS 243.082) <ul style="list-style-type: none"> <input type="checkbox"/> Convention Center - Premises capacity of 1,000 persons <input type="checkbox"/> Horse Track - Premises located at a track licensed by the Kentucky Racing Commission <input type="checkbox"/> Automobile Race Track - Premises seating capacity of 30,000 persons <input type="checkbox"/> Air or Rail System - Commercial airline system or railroad company sells alcohol to passengers on scheduled or chartered trips 	\$3,000.00	\$1,500.00
NQ-2 Retail Drink License (KRS 243.084) <ul style="list-style-type: none"> <input type="checkbox"/> Restaurant - minimum 50% of gross annual income from food sales and minimum seating capacity of 100 persons at tables <input type="checkbox"/> Restaurant Wine and Beer Only - Minimum 50% of gross annual income from food sales and minimum seating capacity of 50 persons at tables <input type="checkbox"/> Motel/Hotel - Minimum 50 sleeping rooms, 25,000 square feet of parking, and maintain a restaurant with 50% food sales and minimum seating capacity of 100 people at tables <input type="checkbox"/> Airport - Premises located in a commercial airport through which more than 500,000 passengers arrive or depart annually <input type="checkbox"/> Riverboat - Capacity to carry more than 100 passengers, and license from U.S. Coast Guard 	\$600.00	\$300.00

NQ-3 Retail Drink License (KRS 243.086) <input type="checkbox"/> Private Club – Nonprofit charitable, civic, social, fraternal organization, or political club which has maintained a room from which the general public has been excluded for at least one (1) year <input type="checkbox"/> Dining Car – Railroad or Pullman Car Company that sells alcohol by package or drink on a train	\$300.00	\$150.00
NQ-4 Retail Malt Beverage Drink License (KRS 243.088)	\$200.00	\$100.00

License Types	Full Year License Fees	Half Year License Fees
Qualified Historic Site License (KRS 241.010, KRS 243.042)	\$500.00	\$250.00
Distiller's License (KRS 243.120, KRS 243.130)	\$1,000.00	\$500.00
Winery License (KRS 243.120)	\$500.00	\$250.00
Small Farm Winery License (KRS 243.155)	\$100.00	\$50.00
Brewer's License (KRS 243.150)	\$1,000.00	\$500.00
Microbrewery License (KRS 243.157, KRS 244.606)	\$500.00	\$250.00
Wholesaler's License (KRS 243.160, KRS 243.170)	\$2,000.00	\$1,000.00
Distributor's License (KRS 243.180, KRS 244.606)	\$500.00	\$250.00
Special Sunday Retail Drink License	\$100.00	\$50.00
Temporary Event License	Per Event	\$10.00

3.02 DISTILLED SPIRITS LICENSES; FEES

- (A) The City shall have the power and authority to issue the following kinds of distilled spirits licenses:
- (1) Wholesaler's license;
 - (2) Quota retail package license; and
 - (3) NQ-2 retail drink license – Restaurant or Motel/Hotel.
- (B) This Section shall not be construed to limit the City's authority under Section 3.12 of this Ordinance, or any other provision of law, to issue licenses permitted by KRS 243.070.
- (C) The fee for the licenses authorized by this Section shall be as follows:

<u>License Type</u>	<u>Full Year</u>	<u>Half Year</u>
Wholesaler's license	\$ 2,000	\$ 1,000
Quota retail package license	\$ 600	\$ 300
NQ-2 retail drink license Restaurant or Motel/Hotel	\$ 600	\$ 300

3.03 MALT BEVERAGE LICENSES, FEES

- (A) The City shall have the power and authority to issue the following kinds of malt beverage licenses:
- (1) Distributor's license;
 - (2) NQ retail malt beverage package license; and
 - (3) NQ-4 retail malt beverage drink license.
- (B) The fee for the licenses authorized by this Section shall be as follows:

<u>License Type</u>	<u>Full Year</u>	<u>Half Year</u>
Distributor's license	\$ 500	\$ 250
NQ retail malt beverage package license	\$ 200	\$ 100
NQ-4 retail malt beverage drink license	\$ 200	\$ 100

3.04 RESTAURANT WINE AND BEER ONLY LICENSE; FEES

- (A) The City shall have the power and authority to issue restaurant wine and beer only licenses (as a NQ-2 retail drink license); provided that any applicant for such a license must be an owner or lessee of a restaurant which receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of fifty (50) persons at tables.

- (B) A restaurant wine and beer only license shall authorize a licensee to purchase, receive and sell wine and beer at retail for consumption on the licensed premises. Such licensee shall purchase wine and beer only from licensed wholesalers / distributors.
- (C) The fee for a restaurant wine and beer only license shall be \$600.00 for a full year and \$300.00 for a half year.

3.05 *QUALIFIED HISTORIC SITE LICENSE*

- (A) The City shall have the power and authority to issue a qualified historic site license pursuant to the terms of KRS 243.042 for locations which are designated as an historic site by the Kentucky Heritage Council and/or the National Register of Historic Places.
- (B) A qualified historic site licensee shall be authorized to:
 - (1) Sell distilled spirits, wine and malt beverages by the drink at one (1) or more permanent or non-permanent locations on the premises over which the licensee, by lease or ownership, has exclusive control;
 - (2) Sell distilled spirits, wine and malt beverages by the drink to patrons at public or private functions held on the premises; and
 - (3) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, KRS 243.280 and KRS 244.310.
- (C) The fee for a qualified historic site license shall be \$500.00 for a full year and \$250.00 for a half year.

3.06 *DISTILLER'S LICENSE / WINERY LICENSE*

- (A) The City shall have the power and authority to issue distiller's licenses and shall have the power and authority to issue winery licenses.
- (B) A distiller's license / winery license shall authorize the licensee to engage in the business of distiller / winery at the premises specifically designated in the license, to maintain aging warehouses, and to transport for the licensee only any alcoholic beverage which the licensee is authorized under the license to manufacture or sell. The licensee shall transport alcoholic beverages only by a vehicle operated by the licensee, which has affixed to its sides at all times a sign of form and size prescribed by the State Board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the

same truck or vehicle with malt beverages, except by a common carrier, unless the owner of the truck or vehicle holds a distributor's license.

- (C) Sales and deliveries of distilled spirits and wine may be made at wholesale from the licensed premises only as follows:
- (1) By distiller to rectifiers, wineries, holders of special non-beverage alcohol licenses to the extent they are authorized to make the purchases, or other distillers.
 - (2) By wineries to rectifiers or other wineries, or to the holders of special non-beverage alcohol licenses;
 - (3) By distillers or wineries to wholesalers; or
 - (4) By distillers or wineries for export out of the State.
- (D) No distiller or winery shall sell or contract to sell, give away or deliver any alcoholic beverages to any person who is not authorized by the law of the State to receive and possess such alcoholic beverages. No distiller or winery shall sell or contract to sell, give away or deliver any of the licensee's products to any retailer or consumer in Kentucky.
- (E) Distillers may purchase distilled spirits only from other licensed distillers in the State or in another state or province, but distillers may purchase from rectifiers licensed in the State distilled spirits which are packaged in retail containers.
- (F) Wineries may purchase distilled spirits or wine only from licensed distillers or wineries in the State, or from nonresident distillers or wineries authorized by the law of the state of their residence to make the sales.
- (G) The fee for a distiller's license or winery license shall be \$1,000.00 for a full year and \$500.00 for a half year.

3.07 *SMALL FARM WINERY LICENSE*

- (A) The City shall have the power and authority to issue small farm winery licenses.
- (B) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off premises retail site shall be separately licensed:

- (1) Manufacture wines and bottle wines produced by the small farm winery;
 - (2) Bottle wines produced by another small farm winery;
 - (3) Serve on the premises or at small farm winery off-premises retail sites complimentary samples of wine produced by the small farm winery in amounts not to exceed six (6) ounces per patron per day;
 - (4) Sell by the drink or by the package on premises, at small farm winery off premises retail sites, and at fairs, festivals, and other similar types of events, wine produced on the premises of the small farm winery or produced by a licensed small farm winery, at retail to consumers;
 - (5) Sell and transport wine produced on the premises of the small farm winery to wholesale license holders and small farm winery license holders;
 - (6) Allow consumption on the premises of wine produced by the small farm winery or another licensed small farm winery and purchased by the drink or by the package at the licensed premises;
 - (7) Ship to a customer wine produced by a small farm winery if:
 - (a) The wine is purchased by the customer in person at the small farm winery;
 - (b) The wine is shipped by licensed common carrier; and
 - (c) The amount of wine shipped is limited to two (2) cases per customer.
- (C) A small farm winery licensee may also hold a restaurant wine license and a retail malt beverage license, provided the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise the purpose of which is to promote viticulture, enology, and tourism. The retail malt beverage license shall limit the licensee to the sale of malt beverages for consumption on the premises only.
- (D) The fee for a small farm winery license shall be \$100.00 for a full year and \$50.00 for a half year.

3.08 MICROBREWERY LICENSE

- (A) The City shall have the power and authority to issue microbrewery licenses.
- (B) A microbrewery license shall allow the licensee to perform the following functions:
 - (1) Engage in the business of a brewer under the terms and conditions of KRS 243.150, provided that production of malt beverages at such microbrewery shall not exceed twenty five thousand (25,000) barrels in one (1) year;
 - (2) Serve on the premises complimentary samples of malt beverages produced by such microbrewery in amounts not to exceed sixteen (16) ounces per patron per day;
 - (3) Sell malt beverages produced on the premises of the microbrewery to licensed distributors.
- (C) The fee for a microbrewery license shall be \$500.00 for a full year and \$250.00 for a half year.

3.09 WHOLESALER'S LICENSE

- (A) The City shall have the power and authority to issue wholesaler's licenses.
- (B) A wholesaler's license shall authorize the licensee to purchase, receive, store or possess distilled spirits and wine, to sell them at wholesale, from the licensed premises only, and to transport from the licensed premises for the licensee only any alcoholic beverage which the licensee is authorized by its license to sell; provided that the licensee shall be required to transport such beverages in the manner provided for manufacturers in KRS 243.120. A wholesaler's license holder shall also be permitted to transport distilled spirits and wine from a manufacturer's warehouse or from other licensed wholesaler's premises to the licensed premises, if consumer's spirits stamps have been properly affixed to the spirits or wine which the licensee so transports.
- (C) The fee for a wholesaler's license shall be \$500.00 for a full year and \$250.00 for a half year.

3.10 *DISTRIBUTOR'S LICENSE*

- (A) The City shall have the power and authority to issue distributor's licenses.
- (B) A distributor's license shall authorize the licensee to purchase malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the State.
- (C) A distributor's license holder shall transport malt beverages only by a vehicle owned, rented or leased and operated by the licensee, which has affixed to its sides at all times a sign containing the name and license number of the licensee.
- (D) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.
- (E) The fee for a distributor's license shall be \$500.00 for a full year and \$250.00 for a half year.

3.11 *TEMPORARY EVENT LICENSE*

- (A) The City shall have the power and authority to issue temporary event licenses.
- (B) A temporary event malt beverage or wine license must be obtained from the State Board prior to applying for a City temporary event license. Once the Kentucky temporary event license has been issued, the PABCA may issue a City temporary event license.
- (C) Any non-profit organization shall be eligible for a temporary event malt beverage license and/or a temporary event wine license. Such license shall only authorize malt beverage and wine sales by the drink. A for-profit organization may be eligible for a temporary event license if the City declares in writing sent to the State Board that the event is a civic event supported by the City and the for-profit organization donates a percentage of the proceeds from the event to a charitable organization.
- (D) All malt beverages and wine that are to be sold at a temporary event must be purchased through a licensed distributor.
- (E) The temporary event licensee shall be responsible for all malt beverages and wine and shall keep same stored at all times in an area that is not accessible to the general public. If an event is held on multiple days, the licensee shall keep the malt beverages and wine in locked containers when the event is not taking place or remove the malt beverages and wine from the event site at the end of each day of the event.

- (F) A temporary event license shall permit the licensee to transport, sell, serve and deliver malt beverages and wine for consumption by the drink at the licensed location.
- (G) All persons employed, volunteering, or working in any capacity for the licensee whose job duties include the sale, dispensing or service of malt beverages or wine at the temporary event shall comply with the Mandatory Responsible Beverage Service Training requirements as set forth in Section 4.22 of this Ordinance.
- (H) With respect to any temporary event, (1) the location of the event must be inspected by the PABCA, (2) all buildings and tents to be utilized in connection with the event must be established and in place at least three days prior to the event, (3) the occupancy of such buildings and tents must not exceed the total load capacity of the building / tent, (4) the license holder must comply with any and all code and safety requirements set by the City and State officials, and (5) the license holder must provide and maintain either inside or outside lavatories for both males and females. In order to facilitate the inspection by the PABCA of the planned event and the location of same, the licensee shall inform the PABCA of the location of the event at least ten (10) days prior to the event.
- (I) The license for a temporary event shall be issued only for the days that the event will actually be held. The starting date and ending date of the temporary event license will be noted on the license issued by the PABCA.
- (J) Temporary event license hours of sales shall be the same as prescribed in Section 4.02 of this Ordinance. The licensee shall be permitted to sell malt beverages and wine by the drink during the hours of 7:00 a.m. to 12:00 midnight; provided, however, that no sales shall be permitted during the twenty-four (24) hours of Sunday or the twenty-four (24) hours of Christmas day.
- (K) The fee for a temporary event malt beverage license shall be \$10.00 per each event. The fee for a temporary event wine license shall be \$10.00 per each event.

3.12 **CONSUMPTION OF DRINK ON PREMISES; LICENSE
REQUIRED; FEE**

- (A) The City Council of the City, pursuant to KRS 242.185, has determined that economic hardship exists within the City, as is evidenced by its high rate of unemployment, slow rate of growth, loss due to plant closings, and a significant number of vacancies in the Central Business District. The City Council has further determined that the licensing authorization contained in subsections “B” and “C” of this Section could aid economic growth. Further, the City Council adopts this Ordinance, i.e. the “Alcoholic Beverage Control Ordinance of the City of Princeton,” as a comprehensive, regulatory ordinance covering, *inter alia*, the licensing and operation of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.
- (B) The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages if a malt beverage license is obtained. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons at tables, or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons. The term “bona fide restaurant” as used in this Section shall mean, in addition to having the minimum seating requirements set forth above, a restaurant which derives at least fifty percent (50%) of its gross revenue from the sale of food; this requirement is and shall be in accord with KRS 242.1295. The fee for such a license shall be six hundred dollars (\$600.00) per annum.
- (C) In accordance with KRS 242.185(4), the PABCA is authorized to issue any license permitted by KRS 243.070, and the activity thereby licensed is permitted in accordance with State law and City law.
- (D) Unless a different license fee is provided for in this Ordinance, the City license fee for any license authorized by KRS 243.070 shall be the maximum license fee allowed to the City by KRS 243.070, as it may be amended from time to time.
- (E) All regulations, which may be issued to administer KRS 242.185, this Section of this Ordinance, and any other provision of this Ordinance or State law, shall conform to the requirements of KRS 241.190.

3.13 NQ-3 RETAIL DRINK LICENSE; FEES

- (A) The City shall have the power and authority to issue a NQ-3 retail drink license to any non-profit social, fraternal, military or political organization or club, which for more than one year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded, and shall have the power and authority to issue a NQ-3 retail drink license to a dining car.
- (B) A NQ-3 retail drink license issued to a private club shall authorize the licensee to exercise the privileges of a NQ-2 retail drink licensee, at the designated premises if the general public is excluded.
- (C) A NQ-3 retail drink license issued to a dining car shall authorize the licensee to exercise the privileges of a NQ-2 retail drink licensee and shall also authorize the licensee to sell distilled spirits and wine by the package, only on the designated dining car identified in the NQ-3 license.
- (D) The fee for a NQ-3 retail drink license shall be \$300.00 per year.

3.14 MALT BEVERAGE CONSUMPTION ON PREMISES

- (A) The City Council of the City of Princeton, Kentucky has determined that it is desirable and appropriate to regulate conduct on premises licensed to sell malt beverages at retail. The City finds that while a number of licensed premises may be suitable for the sale of malt beverages to be removed for consumption elsewhere, there are also a number of premises which are not suitable or appropriate for consumption of malt beverages on the premises. Examples include, but are not limited to, package distilled spirits and wine stores, grocery stores, convenience stores, and premises which do not have adequate facilities for the congregation of customers who are consuming on premises, such as availability of food, adequate restrooms, and at least a minimum of seating for customers.
- (B) No malt beverage licensee shall allow consumption of any malt beverage on the licensed premises unless the licensee also holds, for the same premises, a NQ-2 retail drink license, NQ-3 retail drink license or a NQ-4 malt beverage drink license.
- (C) The intent of this Section is to regulate and establish standards of conduct on premises selling malt beverages under license. This Section shall not be construed as imposing any limitation upon the number of malt beverages licenses issued pursuant to this Ordinance. Nothing contained in this Section shall be construed as prohibiting a licensee from selling malt beverages upon the licensed premises. The sole prohibition contained in this Section is the consumption of malt beverages on the

licensed premises if the premises is not licensed pursuant to one of the licenses identified in Subsection B of this Section.

3.15 **SPECIAL SUNDAY SALE LICENSES AUTHORIZED FOR NQ-3
RETAIL DRINK LICENSEES**

This Ordinance shall not be construed to authorize special Sunday sale retail drink licenses for any licensee other than the holder of a NQ-3 retail drink license. NQ-3 retail drink licensees shall be permitted to sell and serve alcoholic beverages for consumption on the premises from 1:00 p.m. until 12:00 midnight on Sundays, provided that the NQ-3 retail drink licensee has obtained a special Sunday retail drink license from the State and the City.

3.16 **LICENSE TERM; RENEWAL**

Applications for renewal of licenses required by this Ordinance shall be made for each license year which, in order to coincide with the State license year, shall begin the first day of February and extend through the last day of January of the succeeding year. Applications for renewal are to be filed with the PABCA no less than fifteen (15) or more than forty-five (45) days prior to expiration.

3.17 **PRORATION; REFUNDS PROHIBITED**

Proration of fees shall be as provided for State licenses in KRS 243.090. In the event any licensee shall cease doing business for any reasons, no refund of the City license fee shall be granted to such licensee.

3.18 **ASSIGNMENT, TRANSFER, CONTINUANCE, LICENSE
REPLACEMENT**

- (A) The assignment, transfer, continuance, pledge or hypothecation of City licenses shall be governed by the provisions of KRS 243.630, 243.640, 243.650 and 243.660. An approval by the State, under those statutes, shall be deemed an approval by the City. Non-approval by the State shall be deemed non-approval by the City. No City license may be sold or otherwise transferred (including transfer to any premises) unless the proposed transfer shall have first received the approval of the State Board, and thereafter the acknowledgement of the PABCA is given. A transfer fee of \$50.00 shall be paid to the City.
- (B) When a license has been lost or destroyed, the PABCA may issue a duplicate or replacement license upon payment of a fee of \$25.00.

3.19 **LOCATION OF BUSINESS RESTRICTED**

Licenses under this Ordinance shall not authorize the conduct of business in any place other than that specifically described in the original State application and license. Any additional buildings or rooms attached to licensed premises and requiring separate service bars shall require a City supplemental bar license.

3.20 **APPLICATION; CONTENTS; EMERGENCY ACTION**

An applicant for a license under this Ordinance shall file with the PABCA a copy of such applicant's State license application containing the information required by KRS 243.380 and 243.390. The City application shall include the consent of the applicant permitting the PABCA to inspect and search the licensed premises at any reasonable time; to confiscate articles found on the premises in violation of any ordinance, statute, or regulation; to obtain and inspect copies of any records, books or other information which the PABCA deems necessary to enforce the terms of this Ordinance, whether such records, books or information is maintained by the licensee, an agent of the licensee or a vendor or supplier of the licensee; and to order an emergency temporary closure of the premises if the public health, safety, morals or welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the PABCA, which review shall occur within thirty-six (36) hours of the imposition of the temporary closure.

3.21 **APPROVAL OR DENIAL OF APPLICATION**

- (A) Upon review of the application, the PABCA may approve the application if the PABCA determines that each of the following conditions is satisfied:
- (1) The applicant has complied with all requirements of the State Alcoholic Beverage Control Law, as well as all regulatory provisions of this Ordinance;
 - (2) The location is one that can be approved, including but not limited to the requirements of KRS 243.220;
 - (3) A license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board; and
 - (4) There are no other causes for denial of the license.

If the PABCA approves the application, he/she shall issue a City license to the applicant upon proof that the applicant has obtained the requisite State license for the subject location.

- (B) If the PABCA has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the PABCA may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The PABCA shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the PABCA. Any decision by the PABCA on the application shall be subject to appeal as provided by law.
- (C) As prescribed by KRS 243.550, hearings upon appeals from orders of the PABCA or upon proceedings for revocation or suspension shall be held by the Board. The Board may, at its discretion, hold the hearing in Frankfort, or in the county where the licensed premises, or the premises to be licensed, are located. Decisions shall be made and final orders entered only upon the vote of a majority of the Board. The hearings shall be conducted in accordance with the provisions of KRS Chapter 13B.
- (D) Pursuant to KRS 243.560, any final order of the Board refusing, revoking or suspending a license may be appealed by the applicant or licensee, and any final order of the Board granting or refusing to revoke or suspend a license may be appealed by any citizen aggrieved thereby.

3.22

PAYMENT OF FEES

Upon approval of the application by the PABCA, the applicant shall pay to the City Clerk the amount of the license fee provided in this Ordinance in the form of a certified check, money order or cash. Payment shall be held on deposit by the City pending State license approval and issuance of the City license by the PABCA.

3.23

POSTING OF LICENSES; PUBLIC RECORD

Each City license shall be in substantially the same form prescribed by KRS 243.440 for State licenses, and shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for State licenses. An exact duplicate or facsimile of each City license shall remain in the PABCA's office as part of the public record.

3.24

**LICENSE TO BECOME VOID IF BUSINESS DORMANT;
LICENSE RENEWAL**

- (A) Pursuant to the provisions of the Kentucky Revised Statutes, all administrative regulations promulgated pursuant to the provisions of the Kentucky Revised Statutes, and this Ordinance, as they may be amended from time to time, a quota system may exist for the number of licenses to sell alcoholic beverages in the City. Therefore, it is necessary that a licensee actually conduct the business authorized by the license; otherwise the license will be declared dormant and become null and void after ninety (90) days. Because a licensee, like any other business, may suffer an interruption of business by situations not under the licensee's control, various exceptions to this dormancy rule are included in subsection (B).
- (B) Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period, the license shall be surrendered to the PABCA, except that any licensee who is unable to continue in business at the licensed premises may apply to the State Alcoholic Beverage Control Department, pursuant to 804 KAR 4:110, as amended from time to time, to continue such license in dormancy. In the event a period of dormancy is applied for by the licensee or granted by the State to the licensee, the licensee shall immediately notify the PABCA. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the PABCA and a fee shall be due and payable to the PABCA for the period the license was in dormancy in the same amount that would have been due had the license remained active during the period of dormancy.
- (C) Applications approved by the PABCA and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premises involved. Upon written request by the applicant, extensions may be granted by the PABCA as he or she deems appropriate in the exercise of sound discretion based on the facts and circumstances surrounding each request.
- (D) Applications for renewal of licenses and payment of the license fee must be on file with the PABCA at least fifteen (15) days, but not more than forty-five (45) days, before the expiration of the licenses for the preceding license period, or the license shall be cancelled. However, the licensee may file a written, verified statement at least fifteen (15) days prior to the expiration date of the license, setting forth facts justifying an extension. The PABCA may then extend the time for filing an application for renewal of the license for a reasonable length of time within the exercise of his or her sound discretion. The licensee shall pay the license fee from

the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

3.25

**CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE;
SUSPENSION OR REVOCATION OF LICENSE**

- (A) Causes for refusal to issue or renew a City 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 alcoholic beverage licensing, sales, the administration of licenses, or a licensee allowing conduct on the licensed premises which is prohibited by this Ordinance.
- (B) No license to sell alcoholic beverages shall be granted or renewed to any person or other entity 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 or occupied by the licensee, upon which there are any delinquent taxes or fees due the City. 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 beverages shall be subject to revocation or suspension. The PABCA may, in his or her discretion, approve a license to sell after receiving from the City Clerk, a written statement to the effect that the applicant for the license has paid the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees, which are due and payable by the licensee or which are due upon the premises or property upon which alcoholic beverages are to be sold.
- (C) No retail package liquor license shall be issued for any premises unless the applicant certifies under oath that ninety percent (90%) of the total projected gross receipts from sales made at the licensed premises during the twelve (12) month period following the issuance of the license shall be derived from the sales of alcoholic beverages. No retail package liquor license shall be renewed for any premises unless ninety percent (90%) of its gross receipts from sales for the immediate past month and the immediate past twelve (12) months have been derived from the sale of alcoholic beverages.
- (D) Appeals may be taken from decisions of the PABCA to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

3.26 LOCATION OF PREMISES TO BE LICENSED

- (A) No license for the sale of alcoholic beverages at retail shall be issued for any place of business that is located within 1000 feet, measured in a straight line, of a building occupied as a school, preschool or daycare; provided, however, that this restriction shall not apply to licenses for by the drink sales as authorized under Section 3.12 of this Ordinance.
- (B) No license for the sale of alcoholic beverages at retail shall be issued for any place of business located within 200 feet, measured in a straight line, of a building occupied as a place of worship; provided, however, that this restriction shall not apply to licenses for by the drink sales as authorized under Section 3.12 of this Ordinance.
- (C) The restrictions set forth above in (A) and (B) of this Section shall not apply when a place of business involving retail alcoholic beverage sales has been established within all regulations of this Ordinance and a school, preschool, daycare or place of worship is thereafter established within the proscribed distance as set forth above in (A) or (B).
- (D) Measurement of the distance referred to above in (A) and (B) of this Section shall be taken in a straight line from the nearest exterior wall of the building used for a school, preschool, daycare or place of worship, to the nearest exterior wall of the building sought to be licensed.

SECTION 4: SALE OF ALCOHOLIC BEVERAGES**4.01 LICENSE 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 City unless first procuring a license under the provisions of this Ordinance, all State statutes, and all regulations adopted pursuant thereto. This Ordinance and those statutes and regulations shall be hereinafter singularly and collectively referred to as the alcoholic beverage control law. The revocation, suspension, non-renewal, or other action, which obviates the State license, shall also operate to invalidate the corresponding City license.

4.02 HOURS OF SALE

- (A) Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted to remain open during the hours of 7:00 a.m. to 12:00 midnight, but shall remain closed (i)

during the twenty-four (24) hours of Sunday and (ii) the twenty-four (24) hours of Christmas day.

- (B) Premises for which there has been granted a license for retail sales of alcoholic beverages by the drink shall not engage in the sale of alcoholic beverages (i) during the twenty-four (24) hours of Sunday or (ii) the twenty-four (24) hours of Christmas day.
- (C) Retail sales of malt beverages may be made between the hours of 7:00 a.m. and 12:00 midnight each day except that no such sales shall be permitted (i) the twenty-four (24) hours of Sunday or (ii) the twenty-four hours of Christmas day. Premises for which a malt beverage license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or chilled malt beverages are locked up and unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.
- (D) Any licensee for sales of alcoholic beverages by the drink or package who violates the preceding section shall be deemed guilty of a misdemeanor, shall be punished in accordance with the provisions of this Ordinance, and the license shall be subject to revocation or suspension within the discretion of the PABCA.
- (E) During the time a licensee's business is actually closed, the premises of any licensee for the sale of alcoholic beverages by the drink or package must be closed to and vacant of all customers and all persons except the licensee and employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closed hours and no parties, private or public, shall be held on the premises during the closed hours. The premises shall not be loaned, rented or leased to anyone during closed hours for a party or for any other purposes.
- (F) Wholesalers shall not deliver alcoholic beverages on Sunday.
- (G) Notwithstanding anything contained in this Ordinance to the contrary, NQ-3 retail drink licensees shall be permitted to sell and serve alcoholic beverages for consumption on the licensed premises on Sundays from 1:00 p.m. until 12:00 midnight as authorized in Section 3.15 of this Ordinance.

4.03 **EXCEPTIONS TO MANDATORY CLOSING TIMES;
REQUIREMENTS**

A licensee of a premises holding a motel/hotel drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.

4.04 **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 law 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 law, and such occurrence shall be grounds for revocation or suspension of the license. In addition to other penalties provided for the violation of this Ordinance, the PABCA is hereby authorized to confiscate the alcoholic beverages.

4.05 **ADVERTISING RESTRICTIONS**

- (A) Except as authorized in Subsection B below, no sign, banner, poster or other type of display advertising which refers, either directly or indirectly, to alcoholic beverages, shall be displayed on, nor shall it be visible from, the exterior of any premises licensed for the sale of alcoholic beverages; provided, however, that reference to alcoholic beverages may be included in the name of the business and permanent signs identifying the location with the name of the business may be erected and/or placed upon the building in accordance with applicable land use restrictions. This restriction shall not prevent any licensee from placing in the window of the licensed premises business price cards not larger than two and one-half (2 ½) inches in size, setting forth the price at which he offers alcoholic beverages for sale.
- (B) Each licensed premises shall be allowed to place one (1) sign (neon or otherwise) in one (1) window on each side of the structure, facing the exterior of the premises, provided that such signs shall not be flashing, oscillating, rotating or shimmering, and shall not utilize lights demonstrating movement or the illusion of movement. The sign may advertise a brand of alcohol, but shall not state or otherwise indicate the price at which the alcoholic beverage is for sale. Any "open for business"

sign shall not be included in determining the number of signs allowed under the provisions of this Section 4.05.

- (C) Any advertising by any licensee under this Ordinance shall be in compliance with this Ordinance, KRS 244.130, and any regulation promulgated pursuant to KRS 244.130.

4.06 RETAIL SALES TO CERTAIN PERSONS PROHIBITED

No retail licensee shall sell, give away or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away or delivered to:

- (A) A minor, except that in any prosecution for selling alcoholic beverages to a minor it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.
- (B) A person actually or apparently under the influence of alcoholic beverages.
- (C) Anyone known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.
- (D) Anyone known to the seller or server to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages or anyone known to the seller or server to have been convicted of a felony within the preceding twelve (12) months.

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

- (A) As used in KRS 244.083 and this Section "*premises*" means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.
- (B) With regard to persons under 21 years of age:

- (1) Except as herein provided, no person under 21 years of age shall enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
 - (2) No person holding any license for on-premises consumption of distilled spirits and wine or a license for retail malt beverage sales, or any clerk, servant, agent or employee thereof, shall permit any person under the age of twenty-one (21) years on the licensed premises unless such premises is a restaurant, grocery store, hotel, or private club. In such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.
 - (3) Minors not accompanied by a parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the hour of 10:00 p.m. unless the minor remains only in the designated restaurant area which is clearly separated from both the barroom area and any area provided for dancing.
 - (4) The prohibitions set forth in subsections (1), (2) and (3) shall not apply to persons under the age of twenty-one (21) who are working on the premises, either as an employee or an independent contractor, which persons may enter and remain on said premises while they are working, and at no other time.
 - (5) A licensee or any of his or her clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he or she owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and permits any person under the age of twenty-one (21) to possess or consume any alcoholic beverage on the premises.
- (C) In the event a violation occurs under the provisions of this Section, the PABCA shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and 241.190), to determine whether the licensee, at whose business establishment the prohibited activity occurred, may have such license suspended or revoked. In the event three or more violations under the provisions of this Section occur at a business establishment within a twelve (12) month period, the PABCA, after a hearing, shall suspend or revoke said license.
- (D) No person under twenty-one (21) years of age shall possess for his or her own use, or purchase or attempt to purchase or have another purchase for him or her, any alcoholic beverages. No person shall aid or assist any

person less than twenty-one (21) years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

- (E) No person under twenty-one (21) years of age shall misrepresent his or her age for the purpose of inducing any licensee, or any employee or agent of any licensee, to sell or serve any alcoholic beverages to such person.
- (F) No person under twenty-one (21) years of age shall use, or attempt to use, any false, fraudulent, or altered identification card or paper, or any other document, to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

4.08 LICENSEE TO DISPLAY NOTICE REGARDING SALE TO MINORS

Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows:

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100.00) if they:

- (1) Enter licensed premises to buy, or have served to them, alcoholic beverages.
- (2) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
- (3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages

4.09 GAMBLING

No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on a premises licensed under this Ordinance. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises. Any device or contraband of gambling or evidence of gambling shall be confiscated by the PABCA.

4.10 RADIO RECEIVING APPARATUS

It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises, which is intentionally adjusted so as to receive police messages or broadcasts from any law enforcement agency. In addition to other penalties provided for the violation of this Ordinance, the PABCA or the Chief of Police, or his

or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

4.11 **SECURITY**

The licensee shall be responsible for maintaining security on his or her premises, including providing 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 premises and to discourage unlawful activity in and around the licensed premises.

4.12 **PRIZES PROHIBITED**

It shall be unlawful for any licensee under this Ordinance who sells alcoholic beverages of any kind to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages, and shall also be unlawful for any licensee to give away any alcoholic beverage in any quantity for less than a full monetary consideration.

4.13 **HAPPY HOUR RESTRICTIONS**

Licensees shall not offer reduced drink specials (e.g., two-for-one, happy hours) after the hour of 10:00 p.m. until closing.

4.14 **LAVATORY FACILITIES REQUIRED**

All retail malt beverage and retail drink licensees shall be required to provide indoor lavatory facilities for their customers where such beverages are consumed on the premises.

4.15 **DRIVE-THROUGH OUTLETS PROHIBITED**

No license shall be issued for any premises to operate a vehicle "drive-through" outlet for the sale of alcoholic beverages, nor shall any person or licensee operate or permit such a vehicle drive-through outlet. This prohibition shall not apply to a drive-up window at any premises licensed for retail package liquor, wine or malt beverage, including retail beer, where the primary sales area is arranged for and utilized by persons entering the premises on foot and manually carrying out the products purchased therein.

4.16 HABITUAL CONGREGATION

- (A) Licensed premises. No person or entity operating a retail package store, whether trafficking in distilled spirits, wine or malt beverages, and no person holding a retail malt beverage license, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.
- (B) Vacant property. No person or entity being the owner or otherwise in possession or control of any vacant property who also holds a license issued under this Ordinance shall knowingly allow or permit habitual congregation of persons on the unenclosed portion of such property so as to constitute a public nuisance.

4.17 KEG REGISTRATION

- (A) Any licensee engaged in the sale of kegs of malt beverages shall obtain the name, address and telephone number of the purchaser of the keg and shall require the purchaser to produce a valid driver's license number, or if such number is not available, to produce at least one other valid form of identification.
- (B) The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by State officials and the PABCA and other enforcement officers.
- (C) The keg registration form shall be forwarded to the PABCA within five (5) working days of any instance in which the keg is not returned in accordance with the terms of the sale.
- (D) The PABCA is authorized to develop appropriate rules and regulations and to develop and make available forms for the keg registration and or identification tags.

4.18 PATIO AND OUTDOOR SALES

- (A) Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.
- (B) No licensee shall offer alcoholic beverages for sale in a patio or outdoor area of the licensee's premises unless such patio or outdoor area is clearly defined and enclosed by a fence or other screening, not less than four (4) feet in height. All outdoor areas and screening shall be subject to the approval of the PABCA. The permission to operate a sidewalk café shall be governed by the provisions of this Ordinance and shall be subject to the

regulation of local zoning authorities as well as code enforcement and public safety officers.

- (C) Sidewalk café seating areas must comply with this Section and with all applicable zoning ordinances and other public safety requirements.

4.19

EXCEPTION TO SCREENING REQUIREMENT FOR OUTDOORS SALES AND SERVICE OF ALCOHOLIC BEVERAGES IN THE CASE OF PERMITTED SIDEWALK CAFES IN THE DOWNTOWN RENAISSANCE DISTRICT

- (A) Licensees in the Downtown Renaissance District may request an exemption from the screening or fencing of patio or outdoor area as set forth above in Section 4.18 to permit seasonal sidewalk cafes that serve food and alcoholic beverages as an adjunct to the primary and adjacent licensed premises. In the case of permitted sidewalk cafes, they shall be deemed part of the licensed premises.
- (B) Any food establishment which operates a restaurant and is licensed under this Ordinance and the provisions of State law pertaining to the sale of alcoholic beverages, may upon application to the PABCA, seek permission to expand the operation of the restaurant onto a part, and only that part, of the public sidewalk which immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit.
- (C) The PABCA may issue the permit if he or she finds that:
 - (1) The applicant is licensed under this Ordinance and the State alcoholic beverage control code.
 - (2) The applicant is in compliance with all conditions and restrictions of said license;
 - (3) The applicant has obtained all necessary encroachment permits from the Commonwealth of Kentucky, Department of Transportation;
 - (4) The applicant has all necessary building and use permits, including certification of the Zoning Administrator that the sidewalk café is permitted at the premises location; and
 - (5) The issuance of the permit would not result in any significant adverse land use impact.

4.20

CONDITIONS FOR SIDEWALK CAFÉ PERMIT

The Issuance of a permit for a sidewalk café shall be subject to the following conditions and restrictions; provided, however, that the PABCA may impose additional restrictions where necessary in the judgment of the PABCA to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing.

- (1) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.
- (2) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. They shall be removed at the end of each business day at the hour specified in the permit. Umbrellas, tables, chairs, and other portable appurtenances shall be confined to the area shown on the approved permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.
- (3) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.
- (4) The licensee shall, in addition to all other requirements of law, take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passersby or persons who are not of age or who are obviously or apparently intoxicated.
- (5) No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off the premises by patrons, customers or guest.
- (6) No amplified sound shall be used within a sidewalk café. At no time shall any music origination from any part of the premises create a nuisance.

- (7) The licensee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol beverages and the operation of the premises;
- (8) The permit for sidewalk café may not be assigned or transferred.

4.21 OTHER REQUIREMENTS APPLICABLE TO SIDEWALK CAFÉS

No sidewalk café permit shall be effective unless the licensee has filed with the PABCA evidence of insurance insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of such sidewalk café in an amount to be established by the City Clerk. The City shall be named an additional insured in the policy, providing such insurance and such policy shall further provide that it may not be cancelled except upon at least ten (10) day's written notice filed with the PABCA.

4.22 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

- (A) All persons employed or working in any capacity, whether as an employee, volunteer or as a working proprietor, in any premises licensed under this Ordinance for the sale of any alcoholic beverage, whose job duties include the sale, dispensing or service of alcoholic beverages or the management of the licensed premises, shall participate in and complete the S.T.A.R. training program administered by the State Alcoholic Beverage Control Board.
- (B) All persons required to complete training under paragraph (A) above shall complete the training within sixty (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 City not less than once every three years thereafter.
- (C) The licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the PABCA a record or file on each employee that shall contain the pertinent training information.

SECTION 5: REGULATORY LICENSE FEE

5.01 REGULATORY LICENSE FEE IMPOSED

- (A) A regulatory license fee is imposed on the gross receipts from the sales of alcoholic beverages under each license issued for the purpose of insuring full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the City. The City Council shall adopt, at the budget adoption for the fiscal year, an annual rate for the regulatory license fee as shall be reasonably estimated to insure full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the City. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the regulatory license fee shall be allowed in an amount equal to the annual license fees imposed under the provisions of this Ordinance.
- (B) The regulatory license fee shall be six percent (6%) for the licensing year commencing with the adoption of this Ordinance and continuing thereafter until amended or repealed.

5.02 PAYMENT

Payment of the regulatory license fee shall accompany tax returns approved for use by the PABCA and the City Director of Finance. The return shall be submitted to the PABCA by the twentieth (20th) day of each month for the preceding month's sales. One-twelfth (1/12) of the annual license fee required under this Ordinance shall be deducted each month as a credit against the regulatory license fee.

5.03 FAILURE TO PAY

Failure to pay the monthly remittance within ten (10) days after the due date shall constitute a violation of this Ordinance.

5.04 INTEREST ON LATE PAYMENTS

Interest shall be assessed upon any past due payments at the rate of twelve percent (12%) per annum.

5.05 ADEQUATE RECORD KEEPING REQUIRED

Every licensee shall keep and maintain 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 State Alcoholic

Beverage Control Board, as well as such rules and regulations as may be from time to time promulgated by the PABCA. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the PABCA, the City Director of Finance, or any authorized representatives of the City.

SECTION 6: PENALTIES

6.01 PENALTY FOR NONPAYMENT

If the holder of any license shall fail to pay the regulatory license fee imposed by this Section within ten (10) days of the due date, an automatic penalty of fifty dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of one hundred dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of two hundred dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, the PABCA may hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

6.02 INFRACTION CONSTITUTES A MISDEMEANOR

- (A) Any person who violates any provision of this Ordinance for which no specific penalty is otherwise provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:
 - (1) For the first offense a fine not to exceed five hundred dollars (\$500.00);
 - (2) For any subsequent offense a fine not to exceed five hundred dollars (\$500.00) or confinement in jail of not more than six (6) months, or both.
- (B) In addition to any other penalty provided for herein, any licensee violating any provision of this Ordinance shall be subject to suspension or revocation of such licensee's license, subsequent to a hearing before the PABCA.

- (1) Any proceeding for the revocation of any license issued hereunder shall be governed by the provisions of KRS 243.480.

SECTION 7: SEVERABILITY; EFFECTIVE DATE

7.01 SEVERABILITY AND INTERPRETATION

The provisions of this Ordinance are severable, and the declaration by a Court of competent jurisdiction of the invalidity of any provision hereof shall not affect the validity of any other provision. The headings and captions contained in this Ordinance are solely for ease of use and reference, do not constitute a part of substance of this Ordinance, and shall not be used in the interpretation of any provision of this Ordinance.

7.02 EFFECTIVE DATE; PUBLICATION AND READING BY SUMMARY

- (A) This Ordinance shall become effective upon its passage, approval, and publication as required by law. However, such effective date shall not operate to change the date upon which prohibition ceases to be in effect in the City pursuant to the local option election held on August 7, 2012.
- (B) In accordance with KRS 83A.060, the reading and/or publication of this Ordinance may be made by an Ordinance Summary prepared by the City Attorney.
-
-