SUMMARY OF
CITY OF VANCEBURG, KENTUCKY
ORDINANCE NO. 410.05D

ALCOHOLIC BEVERAGE CONTROL ORDINANCE,
AS AMENDED MAY 18, 2018

Ordinance No. 410.05D, entitled "Alcoholic Beverage Control Ordinance" received a second reading and was passed as amended May 18, 2018 at a special called meeting of the Vanceburg City Council. The Ordinance repeals and replaces prior Ordinance No. 410.05C and sets forth the regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales in the City of Vanceburg; it adopts all applicable and required Kentucky Revised Statutes, including but not limited to KRS Chapters 241 through 244; it provides that all licenses issued by the City of Vanceburg shall begin on July 1 and shall expire on June 30 of the following year, to bring the Ordinance into compliance with KRS 243.090; it provides for administration and control of the manufacture and sales of alcoholic beverages within the City of Vanceburg; sets forth the prohibitions, restrictions, and regulations concerning alcoholic beverage manufacture and sales; sets forth the enforcement procedures and penalties for the provisions of the Ordinance; sets the salary for the ABC Administrator at $500.00 per month; and provides the regulatory license fee and other license fees established under the Ordinance, the full text of which is set forth below, pursuant to KRS 83A.060(9):

Sec. 3.02 LICENSE FEES

(1) PERMITTED LICENSES: All licenses permitted under Kentucky law for a city shall be allowed and all licenses granted under this chapter shall be approved and issued by the City ABC Administrator.

(2) PLACE OF FEE PAYMENT: All fees that are imposed by KRS 243.070 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any City of Vanceburg licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of

Vanceburg ABC Administrator and the fees shall be paid when application for a license is made:

(3) REGULATORY LICENSE FEE.

(A) 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 2.5% of gross sales of alcoholic beverages.

(B) Payment of such regulatory fees shall be remitted to the City ABC Administrator and shall be held in a separate account maintained for the purposes 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 license permitted by law; except that, a credit against a regulatory license fee in the city shall be allowed in any 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 tax returns approved for such use by the City Council. These returns and payments are due no later than by the end of the month immediately following each calendar quarter.

(C) Failure to pay such quarterly remittance within ten days of the due date constitutes a violation and subjects licensee to suspension or revocation.

(D) Penalty for failure to file a return and pay quarterly remittance by the due date is 5% of the tax for each 90 days or fraction thereof. The total late filing penalty shall not exceed 25% of the tax; provided, however, that, in no case shall the penalty be less than $10.

(E) Interest at the rate of 8% per annum will apply to any late payments.

(F) Annually, effective July 1 of each year commencing in 2018, the City Council 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 subsequent regulatory license fee, the Mayor shall cause the city's auditor to audit the 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 fiscal year, a fee rate for the ensuing year.

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

(4) OTHER LICENSE FEES:

(A) Distilled spirit and wine licenses:

(1) Wholesaler's distilled spirits and wine license, per annum.....$3,000.00

(2) Distilled spirits and wine retail package license, per annum.....$600.00

(3) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:

New applicants.....$600.00

Applicants for renewal.....$400.00

(4) Distilled spirits and wine special temporary liquor license, per event.....$100.00

(5) Special temporary wine license, per event.....$50.00

(6) Distilled spirits and wine special temporary auction license, per event.....$200.00

(7) Special private club license, per annum.....$300.00

(8) Nonresident special agent or solicitor's license, per annum.....$40.00

(9) Restaurant wine license, per annum:

New applicants.....$600.00

Applicants for renewal.....$400.00

(10) Extended hours supplemental license, per annum.....$200.00

(B) Caterer's license:

Caterers may be issued a caterer's license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer's license as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer's license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer's license) must also obtain a City business license. The annual City fee for a caterer's supplemental license for malt beverages by the drink shall be $150.00 and for renewal, the fee shall be $75.00. The annual City fee for a caterer's supplemental license for distilled spirits and wine by the drink shall be $200.00, and for renewal the fee shall be $100.00.

(C) Malt beverage licenses:

(1) Brewer's license, per annum.....$500.00

(2) Microbrewery license, per annum.....$500.00

(3) Malt beverage distributor's license, per annum.....$400.00

(4) Retail malt beverage license, per annum.....$200.00

(5) Special temporary retail malt beverage license, per event.....$25.00

(6) Malt beverage brew-on-premises license, per annum.....$100.00

This Ordinance is effective upon publication of this Summary Notice.

Prepared By:

LLOYD E. SPEAR, City Attorney
City of Vanceburg

Matt Ginn, Mayor
City of Vanceburg

Published: June 5, 2018

VANCEBURG POLICE DEPARTMENT

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New Oridance
for Alcohol Sales
in City of Vanceburg

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CITY OF VANCEBURG, KENTUCKY

ORDINANCE NO. 410.05B

AN ORDINANCE TO THE CITY OF VANCEBURG, KENTUCKY, ADOPTING IN THE FOLLOWING SET OF REGULATIONS AND REQUIRMENTS FOR ALCOHOL BEVERAGE CONTROL, HEREINAFTER TO BE KNOWN AS THE CITY OF VANCEBURG'S "ALCOHOLIC BEVERAGE CONTROL ORDINANCE"; AND FURTHER ADOPTING ALL APPLICABLE AND REQUIRED KRS, INCLUDING BUT NOT LIMITED TO, KRS CHAPTERS 241 THROUGH 244; AND

WHEREAS, THE CITY OF VANCEBURG, BY AND THROUGH A MAJORITY OF REGISTERED VOTERS, NOW PERMITS THE PRESENCE OF ALCOHOL, MANUFACTURING, AND SALES WITHIN THE CORPORATE LIMITS OF THE CITY OF VANCEBURG SO LONG AS SUCH IS DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAW; AND

WHEREAS, THE CITY OF VANCEBURG THEREFORE MUST ESTABLISH UNIFORM REGULATIONS AND REQUIREMENTS FOR THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES, MANUFACTURE, AND SALES PURSUANT TO AUTHORIZATION UNDER KRS CHAPTERS 241 THROUGH 244;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF VANCEBURG, KENTUCKY, THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

Chapter 410.00 <u>ALCOHOLIC BEVERAGE CONTROL</u>

Chapter 410 of the Codified Ordinances of the City of Vanceburg is hereby repealed and replaced in its entirety as follows:

Sec. 1.01 SHORT TITLE

This Ordinance shall be known and may be cited as the Alcoholic Beverage Ordinance of the City of Vanceburg.

Sec. 1.02 PURPOSE

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

Sec. 1.03 DEFINITIONS

As used in this chapter, unless the context clearly indicates or requires a different meaning, the words and terms defined in Kentucky Revised Statute 241.010 shall apply.

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Sec. 1.04 INCORPORATION OF STATE LAW

(A) The provisions of the State Alcoholic Beverage Control laws contained in 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, except as otherwise lawfully provided herein.

(B) 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 chapter and all statutes and regulations of the state applicable thereto. Penalty, see Section 5.00.

Sec 1.05 SCOPE OF COVERAGE

(A) This chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such applications.

(B) Nothing contained in this chapter 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 ordinances of the city or of any other statutes of the state relating to violations to alcoholic beverages.

Chapter 2.00 <u>ADMINISTRATION AND CONTROL</u>

Sec. 2.01 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

As provided by KRS 241.160, cities of first, second, third, and fourth class in which alcoholic beverages are permitted shall have City Alcoholic Beverage Control (ABC) Administrators. The duties of the ABC administrator shall be assigned to the office of the Mayor. The local ABC administrator may recommend regulations as may be necessary to implement this chapter; any such regulations shall be in writing and shall be presented to the City Council for approval. The Mayor can initially assume the responsibility of the ABC administrator however he/she may designate a person to the position. The City Council will determine the salary of the ABC administrator.

Sec. 2.02 OATH AND BOND OF LOCAL ABC ADMINISTRATOR AND EMPLOYEES

(A) The ABC administrator before entering upon his duties as such, shall take the oath prescribed in KRS 241.180, and shall execute a bond with a good standing corporate surety in the amount of not less than one thousand dollars, ($1,000.00).

(B) The ABC administrator may require any city employee under his supervision to execute a similar bond in such amount, as he deems necessary.

Sec. 2.03 FUNCTIONS, DUTIES AND POWERS

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(A) The functions of the City ABC Administrator shall be the same with respect to the city license and regulations, as the functions of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations of the ABC Administrator, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until the City Council has first appropriately approved it.

(B) The ABC Administrator 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 ABC administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

Sec. 2.04 POLICE POWER

The City ABC Administrator and his designee shall have the full police powers of law enforcement officers, and their jurisdiction shall be co-extensive with the boundaries of the City. They, along with the City of Vanceburg law enforcement officer, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked, without first obtaining a search warrant. City law enforcement officers shall have full police powers while performing any such inspections.

Sec. 2.05 RIGHT OF INSPECTION

The City ABC Administrator and his designee shall have available at all reasonable times for their inspection all books and records required to be maintained by licenses under KRS 244.150 and the City ABC Administrator shall receive copies of all reports submitted by licensee to the State Alcoholic Beverage Control Board.

Sec. 2.06 APPEALS FROM CITY ABC ADMINISTRATOR

Appeals from the order of the City ABC Administrator may be taken to the state Alcoholic Beverage Control Board by filing with the board, within thirty (30) days, a certified copy of the orders of the City ABC Administrator. The board shall hear matters at issue as original proceeding.

Chapter 3.00 <u>LICENSE AND TAXES</u>

Sec. 3.01 LICENSE REQUIRED FOR SALE

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

Sec. 3.02 LICENSE FEES

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All licenses permitted under Kentucky law for a city with a population of the fourth class shall be allowed and all licenses granted under this chapter shall be approved and issued by the City of Vanceburg ABC Administrator.

All fees that are imposed by KRS 243.070 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of Vanceburg ABC Administrator and the fees shall be paid when application for a license is made:

(A) Distilled spirit and wine licenses:

(1) Wholesaler's distilled spirits and wine license, per annum $3,000.00

(2) Distilled spirits and wine retail package license, per annum..... $600.00

(3) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:

New applicants $600.00

Applicants for renewal $400.00

(4) Distilled spirits and wine special temporary liquor license, per event..... $100.00

(5) Special temporary wine license, per event $50.00

(6) Distilled spirits and wine special temporary auction license, per event..... $200.00

(7) Special private club license, per annum $300.00

(8) Nonresident special agent or solicitor's license, per annum $40.00

(9) Restaurant wine license, per annum:

New applicants $600.00

Applicants for renewal $400.00

(10) Extended hours supplemental license, per annum $200.00

(B) Caterer's license:

Caterers may be issued a caterer's license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer's license

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BEVERAGE CONTROL

as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer's license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer's license) must also obtain a City business license. The annual City fee for a caterer's supplemental license for malt beverages by the drink shall be $150.00 and for renewal, the fee shall be $75.00. The annual City fee for a caterer's supplemental license for distilled spirits and wine by the drink shall be $200.00 and for renewal, the fee shall be $100.00.

(C) Malt beverage licenses:

(1) Brewer's license, per annum $500.00

(2) Microbrewery license, per annum $500.00

(3) Malt beverage distributor's license, per annum $400.00

(4) Retail malt beverage license, per annum $200.00

(5) Special temporary retail malt beverage license, per event $25.00

(6) Malt beverage brew-on-premises license, per annum $100.00

Sec 3.03 DATE LICENSES EXPIRE; PRORATION

All licenses issued by the City shall be valid for a period of no more than one year. All licenses shall expire on April 30 of each year. Applications for renewal are to be filed with the City at least fifteen (15) days prior to expiration.

When any person applies for a new license he shall be charged the full fee for the respective license if six (6) months or more remain before the license is due to be renewed, and one-half (1/2) the fee is less than (6) months remain before the license is due to be renewed. In the event any licensee shall cease doing business for any reason, no refund of the City license fee shall be granted.

Sec 3.04 PERSONS WHO MAY NOT BE LICENSED

A person shall not become a licensee under this chapter for any of the reasons stated in the KRS 243.100.

Sec 3.05 PREMISES THAT MAY NOT BE LICENSED FOR SALES AT RETAIL

No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in the possession of the premises under a written lease or a permit for no less than the license period.

Sec 3.06 BUSINESSES AUTHORIZED BY RETAIL DRINK LICENSE

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A limited restaurant alcoholic beverage by the drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers.

Sec 3.07 PUBLIC NOTICE OF INTENT TO APPLY FOR LICENSE

Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for a supplemental bar license shall before applying for a license advertise, by publication in the Lewis County Herald, his or her intention to apply for a license as stipulated in KRS 243.360. The advertisement shall meet the following requirements:

(1) The advertisement shall state the name and addresses of the members of the partnership if the applicant is a partnership, 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 office 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.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170 424.130.

Sec 3.08 LOCAL ADMINISTRATOR TO FIRST APPROVE APPLICATION

An applicant for an alcoholic beverage license must have his city license approved by the City Alcoholic Beverage Control Administrator before they are eligible to apply for a state license.

Sec 3.09 APPLICATION FOR STATE LICENSE

All applications for alcoholic beverage licenses must submit an application to the state as stipulated in KRS 243.380.

Sec 3.10 SUBMITTAL OF APPLICATION

(A) An applicant for a license under this chapter shall file with the City Alcoholic Beverage Control Administrator a copy of his 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 City ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, safety, morals and 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 City ABC Administrator within thirty-six (36) hours.

(B) All licenses granted under this Ordinance shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and

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upon the forms provided by the ABC Board and the City of Vanceburg, as amended and supplemented from time to time.

(C) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as required by the Kentucky Revised Statutes, the ABC Board and the City of Vanceburg, including as follows:

(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 Kentucky. If a Vanceburg 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;

(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.

(D) Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee.

(E) 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.

(F) All City licenses shall be in such form as may be prescribed by the City and shall contain:

(1) The name and address of the licensee;

(2) The number of the license;

(3) The type of license;

(4) A description by street and number, or otherwise, or the licensed premises;

(5) The name and address of the owner of the building in which the licensed premises are located.

(6) The expiration date of the license;

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(7) 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 law.

(G) All licenses approved by the City ABC Administrator and issued by the City of Vanceburg shall begin on May 1 of any year and shall expire on April 30 of the following year.

(H) 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.

Sec 3.11 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE

(A) State Law References. 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, 243.500, as well as violation of any city ordinance regarding beverage licensing, sales, or the administration of licenses.

(B) 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 to 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. 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. The City ABC Administrator may, in his 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 or has made satisfactory arrangements with the City Clerk for taking care of 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.

(C) Appeals. Appeals may be taken from decisions of the City ABC Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

Sec 3.12 APPROVAL OR DENIAL OF APPLICATION

(A) If upon review of the application, the City ABC Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220 and 242.185(6), that a license may be issued within the rules fixed by the State Alcoholic Beverage Control Board, and that there are no causes for denial of the license, the City ABC Administrator shall approve the application.

(B) If the City ABC Administrator has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, he may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should

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be issued. The City ABC Administrator shall have the right to order, and the applicant shall have the right to request, and evidentiary hearing to examine the violation set forth in the show cause order issued by the City ABC Administrator. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided by law.

Sec. 3.13 PAYMENT OF FEES, REFUND OF FEES

Upon approval of the application by the City ABC Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order, or cash. Payment shall be held in deposit by the City pending state license approval and issuance of the City license by the City ABC Administrator. If payment of a license fee was erroneously made or the licenses are not issued, the City shall authorize the payment of the refundable amount.

Sec. 3.14 ISSUANCE OF CITY LICENSES

The City Licenses shall be issued and the fees collected by the City Clerk. No license shall be issued by the clerk without the approval of the City ABC Administrator. The license shall be in the form of a standard City Business License and a business license category shall hereby be established as an Alcoholic Beverage Control License. The fees shall be those established in Section 3.02 of this chapter and shall not replace the standard business license fees required.

Sec. 3.15 POSTING OF LICENSES

The licensee, before commencing any business for which a license has been issued, shall post and display at all times a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place shall readily see the license.

The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where the 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.

Each license in the same form prescribed by KRS 243.440 for state licenses 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 City Clerk's office as part of the public record.

Sec. 3.16 TRANSFER, ASSIGN, OR ACQUIRE EXISTING LICENSE

The transfer, assigning or acquisition of city license shall be the same as provided for in state licenses in KRS 243.630, 243.650, and 243.660.

Sec. 3.17 APPLICANT TO PAY FOR OWN LICENSE

The license fee for a city license shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued under these sections.

Sec. 3.18 DEPOSIT OF FEES

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

Sec. 3.19 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL

(A) Surrender of license and exceptions. 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 City ABC Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, as amended, from time to time to control such license in dormancy. In the event a period of dormancy is applied for or granted by the ABC Administrator to the licensee, the licensee shall immediately notify the City ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City ABC Administrator and a fee shall be due and payable to the City for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(B) Applications approved by the City ABC Administrator 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 premise involved. The City ABC Administrator may grant extensions, as he deems appropriate in exercise of his sound discretion based on facts and circumstances surrounding each request.

(C) Renewals: Time for filing. All renewal of licenses and payment of license fees must be on file with the City ABC Administrator fifteen (15) days before the expiration of the license for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement fifteen (15) days prior to the expiration date of the license, setting forth the facts justifying an extension. The City ABC Administrator may then extend the time for filing of a renewal of license for a reasonable length of time within the exercise of his sound discretion. The licensee shall pay the licensee 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.

Sec. 3.20 APPROVAL OF PREMISES

The City ABC Administrator shall not grant any alcoholic beverage license or approved a renewal of a license until said applicant and his place of business shall have been approved by the city building inspector and/or Zoning Administration, and any and all other inspections required by the Kentucky Building Code.

Chapter 4.00 <u>PROHIBITIONS, RESTRICTIONS, AND REGULATIONS</u>

Sec. 4.01 HOURS OF SALE

(A) Retail sale for Consumption on Licensed Premises. Premises for which there had been granted a license for the retail sales of alcoholic beverages by the drink, shall be permitted to remain open between the hours of 6:00 a.m. and may not continue after midnight for Monday through Thursday and

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BEVERAGE CONTROL

may not continue after 1:00 A.M. of the following mornings for Friday and Saturday. Consumption of alcoholic beverages may not continue for more than thirty (30) minutes after the respective hours set forth in this section.

(B) Control of Premises During Closing Hours. During the closing hours, the premises of any license for the sale of alcoholic beverages by the drink must be closed to and vacant of all customers and all persons except the licensee and his employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purposes.

Sec. 4.02 HOURS OF SALE; EXCEPTIONS; REQUIREMENTS

The licensee 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.

Sec. 4.03 FOOD SERVICE REQUIREMENTS

All license holders of a Limited Restaurant Alcoholic Beverage By The Drink License shall be required to maintain food service during all hours that alcohol is served.

Sec. 4.04 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

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

Sec. 4.05 ADVERTISING RESTRICTIONS

(A) Signage which refers directly, or indirectly, to alcoholic beverages shall be limited to one (1) two (2) square foot sign, for each fifty (50) square feet of glass window, that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters, 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, except that reference to such may be included in the name of the business. The restriction shall not prevent any licensee from placing in the windows 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.

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(B) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(C) It shall be unlawful for all licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium for advertising alcoholic beverages.

(D) It shall be unlawful for any person, holding a license under this chapter to sell 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 connection with the sale of alcoholic beverages.

(E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

Sec. 4.06 TREATING PROHIBITED

No license holder shall give away any alcoholic beverage in any quantity for less than a full monetary consideration.

Sec. 4.07 LICENSEE TO PURCHASE FROM AND SELL ONLY TO PERSONS AUTHORIZED TO SELL OR PURCHASE

(A) No licensee shall purchase of agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder or a special agents or solicitors license if such a license is required.

(B) No licensee shall sell, or agree to sell, any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agents or solicitors license.

Sec. 4.08 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 is 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 age could not have been ascertained by any other means and that the purchasers appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. The 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) A habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

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(D) Except as provided in Section C above, anyone known to the seller to have been convicted or D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or for a felony within the preceding twelve (12) months.

Sec. 4.09 LICENSEE TO DISPLAY NOTICE AS TO THE SALE TO MINORS: WARNING OF DANGERS OF DRINKING DURING PREGNANCY TO BE POSTED

(A) 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) 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 purpose of purchasing or obtaining alcoholic beverages.

(B) All licensed retail vendors of alcoholic beverages shall post in prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, 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.

Sec. 4.10 MINORS NOT TO POSSESS OR PURCHASE LIQUOR TO MISREPRESENT AGE – USE OF FRAUDULENT IDENTIFICATION

(A) As used in KRS 244.083 and this section, Premises has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages.

(B) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing any alcoholic beverages.

(C) A person under 21 years of age shall not 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 under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(D) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensed agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

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(E) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

Sec. 4.11 PERSONS WHO LICENSEES MAY NOT EMPLOY

(A) A person holding any city license shall not knowingly employ in connection with his or her business any person who:

(1) Has been convicted of any felony within the last two (2) years.

(2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years.

(3) Is under the age of twenty (20) years, unless the person is employed in a capacity that does not involve the sale or serving of alcoholic beverages.

(4) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(B) The provisions of paragraph (1) and (2) or subsection (A) of this section shall not apply if the employees duties do not involve the sale, delivery, or traffic in alcoholic beverages at the licensed premises.

(C) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

Sec. 4.12 RETAIL PREMISES NOT TO BE DISORDERLY

(A) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.

(B) Acts which constitute disorderly premises, consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:

(1) Engaging in fighting or in violent, tumultuous or threatening behavior, or

(2) Making unreasonable noise, or

(3) Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to fire, hazard, or other emergency; or

(4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or

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(5) Conducting promotional efforts that are not customary or usual for a restaurant operation (e. g. wet t-shirt contest).

(C) No person licensed to sell alcoholic beverages at retail shall cause, allow or permit dancing or karaoke singing or pool tables on the premises which holds a city license.

(D) 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 is prohibited and shall not be kept on such premises.

(E) 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 broadcast from any law enforcement agency. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator, or his designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(F) The licensee shall be responsible for maintaining security on his 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 licenses premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

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Chapter 5.00 ENFORCEMENT

Vanceburg City police officers and the City ABC Administrator are authorized to enforce this Ordinance for alleged violations.

Sec. 5.01 INVESTIGATION AND INSPECTION OF PREMISES

The City ABC Administrator and any investigator acting under the authority of the City ABC Administrator shall have the full police powers of peace officers within boundaries of the City of Vanceburg. They, along with any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked, without first obtaining a search warrant.

Sec. 5.02 PENALTIES FOR VIOLATIONS OF CHAPTER 5

The following penalties shall be in addition to any criminal prosecution instituted in Lewis County courts against an alleged violator and fines hereunder shall be payable to the City ABC Administrator.

The City ABC Administrator may assess a fine of not more than five hundred dollars ($500.00) per violation. This payment of said fine shall be transmitted to the City Treasurer to be deposited in the appropriate designated account.

Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00) or imprisoned in the county jail for not more than six months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, joint stock company, or association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

Chapter 6.00 IMPLEMENTATION OF ORDINANCE PROVISIONS

From time to time, the Vanceburg City Council may be 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

Sec 6.01 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.

This ordinance shall be effective immediately upon publication. Any ordinances or parts of ordinances in conflict herein are hereby repealed.

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Mayor
Chris McGlone

Attest: City Clerk
Jeana Billman

First Reading: 12·01·14

Second Reading: 12·08·14

Date Published: 12·16·14

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