

ORDINANCE NO. 2015-11

**AN ORDINANCE REPEALING ORDINANCE NO. 2005-02 AND
ORDINANCE NO. 2014-01 AND ESTABLISHING REGULATIONS FOR
LICENSE APPLICATION AND SALES OF ALCOHOLIC BEVERAGES
AND ESTABLISHING LICENSES AND FEES.**

WHEREAS Calvert City has heretofore been classified as “moist” for purposes of alcoholic beverage sale and manufacture; and

WHEREAS Marshall County recently has held an election determining that Marshall County and Calvert City shall be classified as “wet” for purposes of alcoholic beverage sale and manufacture, effective October 4, 2015; and

WHEREAS the City Council has determined that the following ordinance is necessary and proper for regulating the sale and manufacture of alcoholic beverages in the City, given the likely increased parameters of those activities as a result of the mentioned election.

**NOW THEREFORE BE IT ORDAINED BY THE CITY OF CALVERT CITY,
COMMONWEALTH OF KENTUCKY** that Ordinance 2005-02 and Ordinance 2014-01 hereby are repealed and the following regulations hereby are enacted:

SECTION 1: PURPOSE.

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

SECTION 2: DEFINITIONS.

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

SECTION 3: SCOPE.

(A) This chapter shall apply to the manufacture and sale of malt beverages, wine and distilled spirits on any premises or establishment within the City. The

manufacture and/or sale of malt beverages, wine and distilled spirits on any premises or establishment within the City pursuant to a license issued by the Department of Alcoholic Beverage Control Board shall be governed by the applicable state statutes; however, the provisions of this chapter shall apply to all persons, licensees, premises and establishments within the City to the fullest extent such application is delegated to the City, or otherwise authorized, by the provisions of KRS Ch. 241 through 244. Nothing in this chapter shall excuse or relieve the licensee, or the agent or any employee of any licensee thereof, from the restrictions, requirements and penalties of any other ordinance or ordinances of the City or of any statutes of the Commonwealth relating to violations pertaining to alcoholic beverages.

- (B) The provisions of the Alcoholic Beverage Control Law of the Commonwealth (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this Chapter, except as otherwise lawfully provided herein.

SECTION 4: **LICENSES.**

Under this Chapter, a license shall be issued by the City only to the owners and/or operators of those establishments which qualify for licenses applicable to the City of Calvert City pursuant to KRS Chapter 243. Whenever any person or entity seeks a license from the Department of State Alcoholic Beverages Control to manufacture or traffic in alcoholic beverages within the City pursuant to some other provision of KRS Chapter. 241 through 244, such State applicant shall apply to the City for any applicable City license for the privilege of manufacturing and/or trafficking in alcoholic beverages within the City. City license fees, whether primary or supplemental, shall be assessed in accordance with KRS 243.070 and Section 13 of this Ordinance. Regulatory license fees shall be assessed in accordance with KRS 243.075 and Section 20 of this Ordinance.

SECTION 5: **ABC ADMINISTRATOR.**

- (A) The Mayor shall appoint the City ABC Administrator and any assistant ABC Administrator subject to approval of the City Council. The term City ABC Administrator as used in this ordinance shall also include any assistant ABC Administrator
- (B) The City ABC Administrator may from to time appoint such additional personnel as is necessary to assist him or her in the administration of this chapter.
- (C) The salary for the Office of City ABC Administrator, if any, together with the salaries of any other personnel assisting the City ABC Administrator, shall be

fixed from time to time by the City Council.

- (D) The functions of the City ABC Administrator shall be the same with respect to the City licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth (hereinafter referred to as ABC Board) with respect to state licenses and regulations;.
- (E) No person shall be a City ABC Administrator, an Assistant ABC Administrator, an investigator or an employee of the City under the supervision of the City ABC Administrator, who would be disqualified to be a member of the ABC Board under KRS 241.100.
- (F) The City ABC Administrator or assistant ABC Administrator(s) shall have all authority as authorized under KRS Chapter 241 through 244.
- (G) Should the City ABC Administrator or assistant ABC Administrator(s) at any time have probable cause to believe that any applicant, licensee, employee of a licensee or any stockholder, agent or employee of a licensed corporation, has a criminal record, he or she shall have the authority to require such person to appear in person at the City Police Department for the purpose of having his or her fingerprints taken.
- (H) The City ABC Administrator or assistant ABC Administrator(s), before entering upon his or her duties as such, shall take the oath of office as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than \$1,000, the cost of which shall be paid by the City
- (I)
 - (1) Appeals from the Orders of the City ABC Administrator or assistant ABC Administrator(s) may be taken to the State ABC Board by filing with the Board within 30 days a certified copy of the Orders of the City ABC Administrator.
 - (2) Matters at issue shall be heard by the Board as upon an original proceeding.
 - (3) Appeals from orders of the City ABC Administrator or assistant ABC Administrator(s) shall be governed by KRS Ch. 13B.

SECTION 6: HOURS FOR SALE AND DELIVERY.

- (A) A licensee shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages Monday through Sunday between the hours of 6:00 a.m. and 12:00 midnight.
- (B) All delivery of alcoholic beverages in the City shall be made between the hours of 6:00 a.m. and 12:00 midnight, Monday through Saturday. No delivery shall

occur on Sunday.

- (C) The licensee may sell and dispense distilled spirits, wine and/or malt beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs; provided that, the appropriate licenses have been obtained from both the City and the State ABC Board.

SECTION 7: **CONDITIONS, PROHIBITIONS AND RESTRICTIONS.**

- (A) No gambling or game of chance unless otherwise authorized by the Commonwealth shall be permitted in any form on such licensed premises. Dice, slot machines or any device of chance are prohibited and shall not be kept on such premises.
- (B)
 - (1) It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in the County as it is now or may hereafter be operated.
 - (2) In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator, or any investigator or officer designated by either of such persons, shall have the authority to confiscate any and all such radio receiving apparatus.
- (C) All licensees shall be required to take precautions and implement measures reasonably necessary to discourage unlawful activity in and around the licensed premises. Accordingly, the licensee shall be responsible for maintaining security on the licensed premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise.
- (D) It shall be unlawful for the licensee under this Chapter 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: (1) in direct connection with the sale of malt beverages, or (2) except as otherwise allowed by state law.
- (E) No quota retail package licensee shall permit any alcoholic beverages to be consumed on the licensed premises, unless it holds an additional license authorizing same.
- (F) No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

- (G) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.
- (H) The licensee shall display at all times in a prominent place a sign at least eight inches by 11 inches in 30 point or larger type which states as follows:
- "Persons under the age of twenty-one (21) are subject to a fine of 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."
- (I) (1) The licensee, before commencing any business for which a license has been issued, shall post and display the license at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license.
- (2) The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.
- (J) The licensee shall post in a prominent place easily seen by patrons a printed sign at least 11 inches by 14 inches in size, with letters at least one 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.
- (K) No malt beverage distributor shall sell any malt beverages to any person in the City for any consideration except cash or cash equivalent paid at or before the time of delivery, except as permitted by KRS 244.040. Nor shall any retail licensee sell to a purchaser for any consideration except for cash or cash equivalent at time of purchase.
- (L) (1) No licensee shall knowingly employ in connection with his or her business any person who:
- (a) Has been convicted of any felony within the last two years,

unless allowed by KRS 244.090 (2);

- (b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two years, unless allowed by KRS 244.090(2);
 - (c) Is under the age of 18 years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under statute; and
 - (d) Within two years prior to the date of his employment, has had any City license under this Chapter revoked for cause.
- (2) Violation of this subsection (L) shall, subject both employer and employee to penalties provided in this Chapter and shall be cause for revocation of license.

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

- (A) City police officers and the City ABC Administrator or assistant ABC Administrator(s) are authorized and directed to enforce this Chapter for alleged violations.
- (B) The City ABC Administrator or assistant ABC Administrator(s) along with any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored or otherwise trafficked.

SECTION 9: **MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING.**

- (A) All persons employed in the selling and serving of alcoholic beverages by the drink shall participate in and complete the Kentucky Department of Alcoholic Beverage Server Program (S.T.A.R) or responsible beverage service training from a program approved by the Kentucky Department of Alcoholic Beverage Control.
- (B) All persons required to complete training under division (A) above shall complete that training within 60 days of the date on which the person first becomes subject to the training requirement. All persons completing the training required by this section shall be re-certified in responsible beverage service training from a program approved by the Kentucky Department of Alcoholic

Beverage Control, not less than once every three years thereafter.

- (C) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator or assistant ABC Administrator(s) a record on file on each employee that shall contain the pertinent training information.

SECTION 10: SIGNS AND ADVERTISING.

- (A) All signage shall be in compliance with any and all requirements of the Calvert City Zoning Ordinance and any other applicable rules and regulations of the City.
- (B) Any advertising by any licensee under this Chapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

SECTION 11: PATIO AND OUTDOOR SALES ALLOWED

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

SECTION 12: KEG REGISTRATION

- (A) As used in this section, "keg" is defined as a container designed and capable of holding six (6) or more gallons of malt beverage.
- (B) All retail licensees selling malt beverages in kegs for consumption off of the licensed premises shall attach a control label. The label must display a control number and the name of the licensee, and must be affixed to the keg at the time of sale. At the time of such sale, the licensee shall require the purchaser to complete and sign a keg registration form for the keg stating:
 - (1) The purchaser is of legal age to purchase, possess and use the malt beverage;
 - (2) The purchaser is not purchasing the keg for resale and will not allow any person under the age of twenty-one (21) to consume the malt beverage;
 - (3) The purchaser will not remove, obliterate or allow to be removed or obliterated the control label;
 - (4) The property address where the keg will be consumed and physically located; and
 - (5) The purchaser is aware of his/her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

- (C) The licensee shall obtain the name, address and telephone number of the purchaser and shall require the purchaser to produce a valid driver's license number and, if that is not available, to produce at least one other generally accepted and reliable form of identification.
- (D) The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other law enforcement officers.
- (E) The keg registration form shall be forwarded to the City ABC Administrator within five (5) working days in all situations when the keg is not returned or is returned with the control label removed or obliterated.
- (F) The City ABC Administrator is authorized to develop appropriate registration forms and to develop and to make those forms available to licensees.
- (G) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the City concerning the provisions of this section.
- (H) It shall be unlawful for any licensee to sell or offer for sale kegs without the control labels attached and the keg registration form completed. It also shall be unlawful for any person to remove or to obliterate the control label or to fail to have the required notice visible and readily accessible from the location of the keg.

SECTION 13: FEES; APPLICATION.

- (A) Before an application shall be considered, the applicant must publish a notice of its intent to apply for an alcohol beverage license in a newspaper meeting the requirements, of KRS Chapter 424.
 - (1) (a) The advertisement shall state the name and addresses of the individual applicant, or members of a partnership or limited liability company if the applicant is either, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal officers and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.
 - (b) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170, along with a non-refundable application fee of fifty dollars (\$50.00).

- (2) All licenses granted under this Chapter 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 upon the forms provided by the Kentucky Department of ABC and the City, as amended and supplemented from time to time.
- (3) (a) 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 Kentucky Department of ABC and the City, 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 the state. If a city resident, indicate when residence was established;
 - 6. Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this Chapter;
 - 7. Extent of stock ownership; and
 - 8. Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.
- (b) Each application shall be accompanied by a certified or cashier's check, or a postal or express money order for all fees.
- (4) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator or assistant ABC Administrator(s).
- (5) All City license applications shall be on the form 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 licenses;
 - 4. A description by street and number, or otherwise, of 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; and
 - 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.

- (6) All licenses approved by the City ABC Administrator or assistant ABC Administrator(s) and issued by the City shall begin on February 1 of any year and shall expire on January 31 of the following year.
 - (7) The renewal by the City ABC Administrator or assistant ABC Administrator(s) of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee. The renewal application shall be accompanied by a renewal application fee of \$50.00.
 - (8) The yearly license term is February 1 to January 31. Any licenses issued after February 1 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period. However, the cost of any license shall not be less than that for a period of six months.
 - (9) In the event a violation of this Chapter occurs that requires the revocation of the license, the City shall not be required to refund any portion of the license fee
- (B) There hereby is imposed upon each holder of a license to manufacture and/or traffic in alcoholic beverages, under any provision of KRS Chapter. 241 through 244, a license fee for the privilege of manufacturing and/or trafficking in alcoholic beverages within the City as follows:
1. Distilled spirit license as set forth in KRS 243.030:
 - [a] Distiller's license, per annum.....\$ 500.00
 - [b] Rectifier's license, per annum.....\$3,000.00
 - [c] Wholesaler's distilled spirits & wine license, per annum ...\$3,000.00
 - [d] Quota Retail package license, per annum.....\$1,000.00
 2. Special temporary license, per event.....\$166.66
 3. Non-quota type 1 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$2,000.00
 4. Non-quota type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$1,000.00
 5. Non-quota type 3 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$ 300.00

6. Distilled spirits and wine special temporary auction, license, per event.....\$...200.00
7. Special Sunday retail drink license, per annum.....\$ 300.00
8. Extended hours supplemental license, per annum.....\$2,000.00
9. Caterer's license, per annum.....\$800.00
10. Bottling house or bottling house storage license, per annum.....\$1,000.00
11. Malt beverage licenses as follows:
 - [a] Brewer's license, per annum.....\$ 500.00
 - [b] Microbrewery license, per annum.....\$ 500.00
 - [c] Malt beverage distributor's license, per annum..... ..\$ 400.00
 - [d] Non-quota retail malt beverage package license, per annum..... \$ 200.00
 - [e] Non-quota type 4 retail malt beverage drink license per annum.....\$ 200.00
 - [f] Malt beverage brew-on-premises, per annum.....\$ 100.00
12. Limited restaurant license (includes distilled spirits, wine, and malt beverages), per annum\$1,200.00
13. Limited golf course license (includes distilled spirits, wine, and malt beverages), per annum\$1,200.00
14. The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.
15. The holder of a non-quota retail malt beverage package license may obtain a Non-quota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Non-quota type 4 malt beverage drink license may obtain a non-quota retail malt beverage package license for a fee of fifty dollars (\$50).

- (2) The City ABC Administrator or Assistant ABC Administrator shall transmit fees upon collection to the City Clerk to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator or Assistant ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS

243.360, and the fact the ABC Board Administrator has approved the applicant's State application.

SECTION 14: **REFUND OF LICENSE FEE.**

Should any licensee under this Chapter be prohibited from conducting said business, for the full period covered by the license because of any changes that may hereafter be made in the laws of the State with reference to alcoholic beverages or other cause outside licensee's control then the City shall refund to it the proportionate part of the license fee for the period during which it is prevented from carrying on said business if the licensee provides sufficient proof to the City ABC Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee or agent or employee of the licensee.

SECTION 15: **LOST OR DESTROYED LICENSE.**

When a license shall be lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator or Assistant ABC Administrator after he or she shall be satisfied as to the facts; provided, however, that, the person applying for said duplicate license shall pay a fee of \$10 for issuing said duplicate.

SECTION 16: **REVOCATION OR SUSPENSION AND HEARING.**

- (A) Any license may be revoked or suspended by the City ABC Administrator or Assistant ABC Administrator, or a licensee may in lieu of suspension on approval of the City ABC Administrator or Assistant ABC Administrator in the alternative pay in part or all of the days of any suspension period a sum in accordance with the schedule set forth in Paragraph (E) of this section, if the licensee shall have violated any of the provisions of KRS Chapter 241, 242, 243 or 244, or any rule or regulation of the ABC Board or of the Department of Revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this Chapter now, heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors of any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Chapter 241, 243 and 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his or her sound discretion deems sufficient.

- (B) A license may be revoked for any of the reasons for which the City ABC Administrator or Assistant ABC Administrator would have been required to refuse a license if the facts had been known.
- (C) Any license may be revoked or suspended for the additional following causes:
 - (1) Conviction of the licensee or his or her agent or employee for selling any illegal beverages on the premises licensed;
 - (2) Making any false, material statements in an application for a license;
 - (3) If, within a period of two consecutive years, any licensee or any of his or her clerks, servants, agents or employees of the licensee shall have been convicted of two violations of the terms and provisions of KRS Chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if within such period, any licensee or any of the clerks, servants, agents or employees of the license shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one such felony and one such misdemeanor;
 - (4) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this chapter or acts of congress relative to taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof; and/or
 - (5) Setting up, conducting, operating or keeping, on the licensed remises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.
 - (6) Failure to pay when due any tax imposed by the City of Calvert City.
- (D) In the event a citation for violation of any provision of this ordinance is issued, notification of the alleged violation shall be served in writing on the licensee by delivering a copy to the licensee's place of business in Calvert City and by mailing a copy by U. S. Mail, postage prepaid, to the licensee's address as shown on the application for a license, giving notice that licensee may, within seven (7) days of the date of the notification, request an administrative hearing before the City ABC Administrator or Assistant ABC Administrator to determine the existence of a violation. The hearing shall be a trial type hearing with all parties

having a right to counsel and all witnesses subject to cross-examination.

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

Appeal from the decision of the City ABC Administrator or Assistant ABC Administrator shall be to the State ABC Board within thirty (30) days from the date of the City ABC Administrator's decision. See KRS 241.200.

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

1. Distillers, rectifiers, wineries, and brewers	\$1,000.00 per day
2. Wholesale liquor licensees	\$ 400.00 per day
3. Distributor beer licensees	\$ 400.00 per day
4. Retail licensees authorized to sell distilled spirits, wine or beer by the package or drink	\$ 50.00 per day
5. All remaining licensees	\$ 50.00per day

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

- (A)(1) Within three days after any order of revocation of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section.
- (2) The licensee shall at once surrender his or her license to the City ABC Administrator.
- (3) If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the City ABC Administrator or the Assistant ABC Administrator shall immediately cause one of his or her officers to take physical possession of license and return it to the City ABC Administrator.
- (B) When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.
- (C) Appeal from the decision of the City ABC Administrator shall be to the State ABC Board.
- (D) If a license is revoked or suspended by an order of the City ABC Administrator,

the licensee shall at once suspend all operations authorized under his or her license.

SECTION 18: REFUSAL OF LICENSE.

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

- (A) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any City ordinance regarding alcohol beverage licensing, sales or the administration thereof;
- (B) If the applicant has done any act for which a revocation of license would be authorized; and/or
- (C) If the applicant has made any false material statement in his or her application.
- (D) Failure to pay taxes (See KRS 243.490 (2)).

Appeal from the decision of the City ABC Administrator shall be to the State ABC Board.

SECTION 19: REVIEW OF LICENSE.

Applicants to whom a license is issued which require certain food sales percentages shall provide periodic information demonstrating compliance with the continuing requirement that the required percentage of the applicant's business income is earned from the sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's monthly regulatory fee filings, in the event the 50% food requirement is not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least one year in determining whether or not the 50% minimum food requirement has been met.

SECTION 20: 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 6 % of gross sales of alcoholic beverages.

- (B) Payment of such regulatory fees shall be remitted to the City Clerk, and shall be held in a separate account maintained for the purpose of fully reimbursing the City for any estimated costs of any policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the City. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law; except that, a credit against a regulatory license fee in the City shall be allowed in an amount equal to any licenses or fees imposed by the City pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the fee returns approved for such use by the City Council. These returns and payments are due no later than the end of each the month.
- (C) Failure to pay such monthly remittance within ten days of the due date constitutes a violation and subject's licensee to suspension or revocation.
- (D) Penalty for failure to file a return and pay monthly remittance by the due date is 5% of the fee due for each 90 days or fraction thereof. The total late filing penalty shall not exceed 25 % of the fee due; provided, however, that, in no 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 2016, 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 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 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.

SECTION 21: CHANGE OF INFORMATION.

- (A) If a license issued by the City is in the name of a corporation, it is necessary that stock ownership changes in such corporation be reported to the City ABC Administrator. The City ABC Administrator can therefore, investigate the person to whom the stock is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.
- (B) As used herein, the word CHANGE is construed to include any change in directors or officers of the corporation, or change in ownership of stock whereby any person secures 10 % of the outstanding stock. Transfer of more than 10% of the total stock shall require a new license.

(C)(1) The following information will be required concerning any new director, officer or person securing any interest in alcoholic beverage license:

1. Name and address;
2. Nature of interest;
3. Whether or not a citizen of the United States;
4. Date of birth;
5. Date residence was established in Kentucky, if a resident of the state. If a city resident, indicate when residence was established;
6. Whether or not he or she has any interest in any other license or Corporation or partnership holding a license under this act;
7. Extent of stock ownership; and
8. Whether or not he or she has any interest in any license or Corporation or partnership holding a license in any other state or province.

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

SECTION 22: DORMANCY.

- (A) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after 90 days. Such is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.
- (B) Any license under which no substantial business is transacted during a period of 90 days, or repeated shorter periods, shall be considered dormant and rescinded by the City ABC Administrator. For purposes of the preceding sentence, "no substantial business" means either no alcohol beverage transactions during the ninety (90) day period in question, or by using comparable data, the City ABC Administrator determines in his or her discretion that the license is being underutilized such that sales for such period(s) are twenty percent (20%) or more below expected sales for such period(s) and such deficiency is not caused by circumstances otherwise excused by this ordinance. Comparable data available to the City ABC Administrator may include, but not be limited to, sales data from comparable businesses and past sales data of the licensee in question. Upon a determination of dormancy by the City ABC Administrator, the license shall be surrendered to the City ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the City ABC Administrator.
- (C) The provisions of division (A) above shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to

construction, an act of God, casualty, death, or the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain (whether the acquisition is voluntary or involuntary), or loss of lease through failure of landlord to renew existing lease. Such licensee shall furnish to the City ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business prior to the expiration of 90 days of inactivity, for any of the reasons set forth herein, and, the City ABC Administrator may grant an extension of the dormancy for such period as the Administrator, in his sole discretion, deems reasonable, advisable and warranted, with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted thereunder within 12 months from the date of notice to the City ABC Administrator. Such extension may not extend beyond the renewal date but may be for such times as the City ABC Administrator deems appropriate in exercise of his or her discretion.

- (D) All renewal licenses must be on file with the City ABC Administrator within 30 days prior to the expiration of the licenses for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license prior due to construction, an act of God, casualty, death, the acquisition or threatened acquisition of these premises by any federal, state, city or other governmental agency or private corporation, possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; that said licensee shall file a written verified statement no less than 20, days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized, to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

SECTION 23: **APPROVAL OF PREMISES.**

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

SECTION 24: **DELINQUENT TAXES OR FEES.**

- (A) No license to sell alcoholic or malt beverages shall be granted or renewed to any

person who is delinquent in the payment of any taxes or fees due the City at the time of the 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.

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

SECTION 25: **BOOKS, RECORDS REPORTS.**

- (A) Every licensee under this chapter shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and such City employees who may assist the City ABC Administrator in his or her review.
- (B) The original records of the ABC Administrator shall be kept in the office of the City Clerk. The ABC Administrator shall maintain a copy of those records in his/her office.
- (C) For the purpose of assisting the City ABC Administrator in enforcement of this Chapter, every licensee required to report to the Department of ABC under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the Department of ABC required by statute shall be furnished to the City ABC Administrator.

SECTION 26: **COST OF ADDITIONAL POLICE PROTECTION FOR
TEMPORARY EVENT**

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

SECTION 27: **IMPLEMENTATION.**

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

SECTION 28: **SEVERABILITY.**

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

SECTION 29: **EFFECTIVE DATE.**

This Chapter is effective upon final reading and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF CALVERT CITY,
KENTUCKY, AT THE FIRST READING ON THE 1ST DAY OF SEPTEMBER, 2015.
PASSED BY THE CITY COUNCIL OF THE CITY OF CALVERT CITY, KENTUCKY, AT
THE SECOND READING ON THE 14th DAY OF SEPTEMBER, 2015.

The members of the City Council voting upon this Ordinance voted as follows:

<u>Member</u>	<u>Vote</u>
GENE COLBURN	Yea
TIMOTHY HAWKINS	Yea
BEN LEONARD	Yea
JEREMY ROWE	Yea
LISA SILLS	Yea
KEVIN STOKES	Yea

PASSED: September 14, 2015

Ralph W. Howard, Clerk

MAYOR

ORDINANCE NO. 2014-01
AN ORDINANCE AMENDING ORDINANCE NO. 2005-02
RELATING TO THE LICENSE PERIOD FOR THE SALE OF ALCOHOL

WHEREAS the Commonwealth of Kentucky has revised its regulation of alcoholic beverage sale licenses to require licensure renewal in Marshall County, Kentucky in January of each calendar year; and,

WHEREAS the City Council wishes to amend its Ordinance Regulating The Sale Of Alcoholic Beverages Within The City Limits of Calvert City so as to comply with the current mandate of the Commonwealth.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF CALVERT CITY, COMMONWEALTH OF KENTUCKY, that Ordinance No. 2005-02, Section 15.13 hereby is amended as follows:

Section 15.13 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 ~~March 31~~ January 31 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 if less than six (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.

SUMMARY OF ORDINANCE NO. 2005-02 REGULATING THE SALE
OF ALCOHOLIC BEVERAGES WITHIN THE CITY LIMITS OF
CALVERT CITY, KENTUCKY.

The City Council of the City of Calvert City has enacted a new chapter of the Code of Ordinances, to be denominated Chapter 15, regulating the sale of alcoholic beverages within the City, and addressing the following items (including the full text of provisions imposing fines, penalties, forfeitures, taxes, or fees):

- Section 15.1 SHORT TITLE
- Section 15.2 DEFINITIONS
- Section 15.3 INCORPORATION OF STATE LAW
- Section 15.4 SCOPE OF COVERAGE

ADMINISTRATION AND CONTROL

- Section 15.5 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR
- Section 15.6 OATH AND BOND OF LOCAL ABC ADMINISTRATOR AND EMPLOYEES
- Section 15.7 FUNCTIONS, DUTIES AND POWERS
- Section 15.8 POLICE POWER
- Section 15.9 RIGHT OF INSPECTION
- Section 15.10 APPEALS FROM DECISIONS OF THE CITY ABC ADMINISTRATOR

LICENSES AND TAXES

- Section 15.11 LICENSE REQUIRED FOR SALE
- Section 15.12 LIMITED RESTAURANT ALCOHOLIC BEVERAGE BY THE DRINK
LICENSE; FEES

(A) The City shall have the power and authority to issue licenses for the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons inside the building and derive a minimum of seventy percent (70%) of their annual gross receipts from the sale of food. The fee for this city license will be \$800.00 per year.

(B) The City license fee for the sale of alcoholic beverages during extended hours will be \$0.00 per year.

(C) The City license fee for the sale of alcoholic beverages on Sunday will be \$0.00 per year.

(D) Whenever any person or entity has been licensed by the State Alcoholic Beverage Control Commission to manufacture or traffic in alcoholic beverages within the City of Calvert City pursuant to any provision of Chapters 241 through 244 of the Kentucky Revised Statutes [other than KRS 242.185(6)],

upon issuance of the state license, such state licensee shall apply to the City of Calvert City for a supplemental City license for the privilege of manufacturing and/or trafficking in alcoholic beverages within the City of Calvert City. The annual City license fee for a Caterer's License shall be \$800.00. Otherwise, the annual license fee for any supplemental City license shall be the maximum amount provided in KRS 243.070(11) for that particular license.

The fees set forth in this section may be amended from time to time if not inconsistent with applicable statutes of the Commonwealth.

Section 15.13 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 March 31 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 if less than six (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.

Section 15.14 PERSONS WHO MAY NOT BE LICENSED

Section 15.15 PREMISES THAT MAY NOT BE LICENSED FOR SALES AT RETAIL

Section 15.16 BUSINESSES AUTHORIZED BY RETAIL DRINK LICENSE

Section 15.17 PUBLIC NOTICE OF INTENT TO APPLY FOR LICENSE

Section 15.18 LOCAL ADMINISTRATOR TO FIRST APPROVE APPLICATION

Section 15.19 APPLICATION FOR STATE LICENSE

Section 15.20 SUBMITTAL OF APPLICATION

Section 15.21 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 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 to the City at any time during the license period, the license to sell

alcoholic or malt beverages shall be subject to revocation or suspension, in the discretion of the ABC Administrator. The City ABC Administrator may, in his discretion, approve a license to sell after receiving from the City Clerk/Treasurer, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Clerk/Treasurer 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.

(D) Failure to Meet Seating Standards. A cause for refusal to issue or renew a license and for suspension or revocation of a city license shall occur if the licensee ceases either to provide a minimum of one hundred (100) seats or derive a minimum of seventy percent (70%) of their annual gross receipts from the sale of food.

Section 15.22 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 be issued. The City ABC Administrator 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 City ABC Administrator. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided by law.

Section 15.23 PAYMENT OF FEES, REFUND OF FEE

Section 15.24 ISSUANCE OF CITY LICENSES

Section 15.25 POSTING OF LICENSES

Section 15.26 TRANSFER, ASSIGNMENT, OR ACQUIRE EXISTING LICENSE

Section 15.27 APPLICANT TO PAY FOR OWN LICENSE

Section 15.28 DEPOSIT OF FEES

Section 15.29 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 4:110, as amended, from time to time to continue 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 for license to sell alcoholic beverages upon or within properties to be constructed or pending the approval of a Zoning Compliance Certificate from the City, or otherwise based upon pending construction or development upon the premises shall be null and void after ninety (90) days from 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. The ABC Administrator may grant extensions, as he deems appropriate in exercise of his sound discretion based upon 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 ABC Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his 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.

PROHIBITIONS, RESTRICTIONS AND REGULATIONS

Section 15.30 HOURS OF SALE

Section 15.31 HOURS OF SALE; EXCEPTIONS; REQUIREMENTS

Section 15.32 FOOD SERVICE REQUIREMENT

Section 15.33 CONFISCATIONS 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, a prima facie presumption shall arise that such 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 the violation of this chapter, the City Alcoholic Beverage Control Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

Section 15.34 ADVERTISING RESTRICTIONS

Section 15.35 TREATING PROHIBITED

Section 15.36 LICENSEE TO PURCHASE FROM AND SELL ONLY TO PERSONS
AUTHORIZED TO SELL OR PURCHASE

Section 15.37 RETAIL SALES TO CERTAIN PERSONS PROHIBITED

Section 15.38 SALE TO PERSON NOT PROVIDING FOR HIS FAMILY PROHIBITED

Section 15.39 LICENSEE TO DISPLAY NOTICE AS TO SALE TO MINORS; WARNING OF
DANGERS OF DRINKING DURING PREGNANCY TO BE POSTED

Section 15.40 MINORS NOT TO POSSESS OR PURCHASE LIQUOR NOR TO
MISREPRESENT AGE-USE OF FRAUDULENT IDENTIFICATION

Section 15.41 PERSONS WHOM 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 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) of subsection (A) of this section shall not apply if the employee's duties do not involve the sale, service, 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.

Section 15.42 RETAIL PREMISES NOT TO BE DISORDERLY

Section 15.43 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

REGULATORY LICENSE FEE

Section 15.44 REGULATORY LICENSE FEE IMPOSED

(A) A regulatory license fee is imposed on the gross receipts from retail 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 fee shall be allowed in an amount equal to any licenses or fees imposed under the provisions of this chapter for the retail sale of alcohol.

(B) The initial regulatory license fee shall be seven percent (7%) and shall continue thereafter until amended or repealed.

Section 15.45 PAYMENT

Payment of such fee shall accompany forms approved for use by the ABC Administrator and shall include a tabulation of both gross food sales and alcohol sales for the preceding month. The forms and payment shall be submitted to the City Clerk by the twentieth (20th) day of each month for the preceding month's sales. The fraction, represented by one divided by the number of months for which the City license was issued, of any fees required under the provisions of this chapter shall be deducted each month as a credit.

Section 15.46 FAILURE TO PAY; INTEREST ON LATE PAYMENT

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

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

Section 15.47 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 One Hundred and 00/100 Dollars (\$100.00) shall be assessed for the first offense. An automatic penalty of Two Hundred and 00/100 Dollars (\$200.00) shall be assessed on the second offense, and an automatic penalty of Three Hundred and 00/100 Dollars (\$300.00) shall be assessed on the third offense. In addition to the monetary penalty, the City Alcoholic Beverage Control Administrator shall 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 made on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

Section 15.48 ADEQUATE RECORDKEEPING

Section 15.49 AUDIT REQUIREMENTS

Section 15.50 PENALTIES

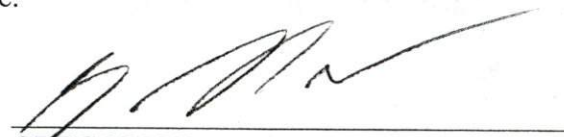
(A) Any person who violates any provision of this chapter for which no specific penalty is provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:

- (1) For the first offense a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00);
- (2) For any subsequent offense a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00) or confinement in jail not more than six (6) months, or both.

(B) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

The full text of this Ordinance may be reviewed at the Office of the City Clerk/Treasurer at City Hall, 1315 5th Avenue SE, Calvert City, Kentucky during normal business hours.

The undersigned attorney is licensed to practice law in the Commonwealth of Kentucky and hereby certifies that the foregoing is a summary of the Ordinance of the City of Calvert City bearing the number and title identified above.



GREGORY K. NORTHCUTT
CALVERT CITY ATTORNEY

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ALCOHOLIC
BEVERAGE CONTROL

ORDINANCE NO. 2005-02

**AN ORDINANCE REGULATING THE SALE OF
ALCOHOLIC BEVERAGES WITHIN THE CITY
LIMITS OF CALVERT CITY, KENTUCKY.**

WHEREAS, an election was held on November 2, 2004, pursuant to KRS 242.185(6) as to whether the City of Calvert City, Kentucky would permit the limited sale of alcoholic beverages within the city limits of Calvert City; and,

WHEREAS, a majority of the citizens of the City of Calvert City have voted in favor of the limited sale of alcoholic beverages; and,

WHEREAS, the City may impose certain restrictions, regulations, and license fees upon such retail establishments that wish to sell alcoholic beverages.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Calvert City, Commonwealth of Kentucky, that the City hereby enacts Chapter 15 of the Code of Ordinances of the City of Calvert City, Kentucky, for the purpose of regulating the sale of alcoholic beverages within the City limits, as follows:

Section 15.1 **SHORT TITLE**

This Chapter shall be known and may be cited as the Alcoholic Beverage Control Ordinance of the City of Calvert City.

Section 15.2 **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.

Section 15.6 OATH AND BOND OF LOCAL ABC ADMINISTRATOR AND EMPLOYEES

(A) Each ABC Administrator before entering upon his duties as such, shall take the oath prescribed in section 228 of the Constitution, and shall execute a bond with a good corporate surety in the amount of not less than one thousand dollars (\$1,000.00).

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

Section 15.7 FUNCTIONS, DUTIES AND POWERS

(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, as provided in KRS 241.060, except that no regulation of the ABC Administrator shall be less stringent than the statutes relating to alcoholic beverage control, or the regulations of the Board.

(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.

Section 15.8 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 any City of Calvert City law enforcement officer, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked. City law enforcement officers shall have full police powers while performing any such inspections.

Section 15.9 RIGHT OF INSPECTION

The City ABC Administrator, his designee and City of Calvert City law enforcement officers shall have available at all reasonable times for their inspection all books and records required to be maintained by licensees 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.

Section 15.3

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, hereby are 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 15.49.

Section 15.4

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 pertaining to alcoholic beverages.

ADMINISTRATION AND CONTROL

Section 15.5

ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

The duties of the City Alcoholic Beverage Control (ABC) Administrator shall be assigned to the office of the City Administrator who shall have the power to designate additional city officials to assist in the responsibilities of the office. The local ABC Administrator and/or his designee shall have the power and authority to promulgate such regulations as may be necessary to implement this chapter.

Section 15.10 APPEALS FROM DECISIONS OF THE 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 upon an original proceeding.

LICENSES AND TAXES

Section 15.11 LICENSE REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverage, nor manufacture or transport any alcoholic or malt beverages 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.

Section 15.12 LIMITED RESTAURANT ALCOHOLIC BEVERAGE BY THE
DRINK LICENSE; FEES

(A) The City shall have the power and authority to issue licenses for the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons inside the building and derive a minimum of seventy percent (70%) of their annual gross receipts from the sale of food. The fee for this city license will be \$800.00 per year.

(B) The City license fee for the sale of alcoholic beverages during extended hours will be \$0.00 per year.

(C) The City license fee for the sale of alcoholic beverages on Sunday will be \$0.00 per year.

(D) Whenever any person or entity has been licensed by the State Alcoholic Beverage Control Commission to manufacture or traffic in alcoholic beverages within the City of Calvert City pursuant to any provision of Chapters 241 through 244 of the Kentucky Revised Statutes [other than KRS 242.185(6)], upon issuance of the state license, such state licensee shall apply to the City of Calvert City for a supplemental City license for the privilege of manufacturing and/or trafficking in alcoholic beverages within the City of Calvert City. The annual City license fee for a Caterer's License shall be \$800.00. Otherwise, the annual license fee for

any supplemental City license shall be the maximum amount provided in KRS 243.070(11) for that particular license.

The fees set forth in this section may be amended from time to time if not inconsistent with applicable statutes of the Commonwealth.

Section 15.13 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 March 31 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 if less than six (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.

Section 15.14 PERSONS WHO MAY NOT BE LICENSED

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

Section 15.15 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 possession of the premises under a written lease or a permit for a term of not less than the license period.

Section 15.16 BUSINESSES AUTHORIZED BY RETAIL DRINK LICENSE

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. A licensee may purchase wine in containers not smaller than one hundred (100) milliliters if the wine does not exceed fourteen percent 14% alcohol by volume. A licensee may buy mixed drinks in containers of a capacity not smaller than three hundred fifty-five (355) milliliters if the mixed drinks contain a substantial proportion of carbonated water. A retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package.

Section 15.17 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, shall before applying for a license advertise, by publication in The Lake News, his or her intention to apply for a license as stipulated in KRS 243.360.

Section 15.18 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.

Section 15.19 APPLICATION FOR STATE LICENSE

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

Section 15.20 SUBMITTAL OF APPLICATION

An applicant for a license under this chapter shall file with the City Alcoholic Beverage Control Administrator a copy of his anticipated 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.

Section 15.21 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 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 to the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension, in the discretion of the ABC Administrator. The City ABC Administrator may, in his discretion, approve a license to sell after receiving from the City Clerk/Treasurer, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Clerk/Treasurer 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.

(D) Failure to Meet Seating Standards. A cause for refusal to issue or renew a license and for suspension or revocation of a city license shall occur if the licensee ceases either to provide a minimum of one hundred (100) seats or derive a minimum of seventy percent (70%) of their annual gross receipts from the sale of food.

Section 15.22 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 be issued. The City ABC Administrator 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 City ABC Administrator. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided by law.

Section 15.23 PAYMENT OF FEES, REFUND OF FEE

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 the payment of a license fee was erroneously made or the licenses are not issued, the City shall authorize the payment of the refundable amount.

Section 15.24 ISSUANCE OF CITY LICENSES

The City licenses shall be issued and the fees collected by the City Clerk/Treasurer. No license shall be issued by the Clerk without the approval of the City ABC Administrator. The license shall be in a form prescribed by the City ABC Administrator complying with the provisions of KRS 243.440 and specifically identified as a "Limited Restaurant Alcoholic Beverage by the Drink License". The fees shall be those established in Section 15.12 of this chapter and shall not replace any other fee or tax, including but not limited to the business and occupational license tax.

Section 15.25 POSTING OF LICENSES

Each city 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/Treasurer's office as part of the public record.

Section 15.26 TRANSFER, ASSIGNMENT, OR ACQUIRE EXISTING LICENSE

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

Section 15.27 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.

Section 15.28 DEPOSIT OF FEES

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.

Section 15.29 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 4:110, as amended, from time to time to continue 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 for license to sell alcoholic beverages upon or within properties to be constructed or pending the approval of a Zoning Compliance Certificate from the City, or otherwise based upon pending construction or development upon the premises shall be null and void after ninety (90) days from 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. The ABC Administrator may grant extensions, as he deems appropriate in exercise of his sound discretion based upon 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 ABC Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his 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.

PROHIBITIONS, RESTRICTIONS AND REGULATIONS

Section 15.30 HOURS OF SALE

(A) Retail Sale for Consumption on Licensed Premises. Premises for which there has 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 12:00 midnight each weekday. However, sales may not be conducted at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate area within his licensed premises capable of being locked and closed off within which is kept all stock of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

(B) No alcoholic beverages may be sold or dispensed on Sundays, unless pursuant to paragraph (C) below.

(C) The licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs, provided that the appropriate licenses have been obtained from both the City and the State ABC Commission. If New Year's Eve falls on Sunday, alcoholic beverages may be sold and dispensed after 5:00 p.m.; if New Year's Day falls on Sunday, then alcoholic beverages may be sold and dispensed until 2:00 a.m. on January 1; provided that in either instance, the appropriate licenses for Sunday sales and for extended sales must be obtained from both the City and the State ABC Commission. In either event, there shall be no additional City license fee imposed.

(D) Control of Premises During Closed Hours. During the closed 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 closed 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 closed hours for a party or for any other purposes.

Section 15.31 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.

Section 15.32 FOOD SERVICE REQUIREMENT

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.

Section 15.33 CONFISCATIONS 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, a prima facie presumption shall arise that such 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 the violation of this chapter, the City Alcoholic Beverage Control Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

Section 15.34 ADVERTISING RESTRICTIONS

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

Section 15.35 TREATING PROHIBITED

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

Section 15.36 LICENSEE TO PURCHASE FROM AND SELL ONLY TO PERSONS AUTHORIZED TO SELL OR PURCHASE

(A) No licensee shall purchase or 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 of a special agent's or solicitor's 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 agent's or solicitor's license.

Section 15.37 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 purchaser's 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.

(D) Except as provided in Section C above, anyone known to the seller to have been convicted of 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.

Section 15.38 SALE TO PERSON NOT PROVIDING FOR HIS FAMILY PROHIBITED

No licensee shall sell or agree to sell any alcoholic beverages or cause or permit any alcoholic beverage to be sold to any person who has been reported to the licensee by any court or by any officer acting at the direction of a court as having failed to make proper provision for his family.

Section 15.39 LICENSEE TO DISPLAY NOTICE AS TO 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 (\$100.00) 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 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.

Section 15.40 MINORS NOT TO POSSESS OR PURCHASE LIQUOR
NOR 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 or receiving 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 licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(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.

Section 15.41 PERSONS WHOM 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 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) of subsection (A) of this section shall not apply if the employee's duties do not involve the sale, service, 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.

Section 15.42 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 a fire, hazard, or other emergency; or
- (4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or
- (5) Conducting promotional efforts that are not customary or usual for a restaurant operation (i.e. wet t-shirt contest, etc.).

Sec. 15.43 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

(A) All persons employed as managers in the selling and serving of alcoholic beverages shall participate in and satisfactorily complete the STAR Certification Program sponsored and conducted by the Kentucky Alcoholic Beverage Commission.

(B) All persons required to complete training, under paragraph (A) above, shall complete that training within one hundred eighty (180) 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 accordance with the STAR Program (or its equivalent as subsequently may be sponsored and approved by the Kentucky Alcoholic Beverage Commission) not less than once every three years.

(C) Each restaurant licensed by this ordinance must at all times that alcoholic beverages are being served have upon the premises and on duty at least one person currently certified in accordance with the foregoing standards.

(D) The manager of the restaurant shall be responsible for compliance with these requirements and shall maintain for inspection by the City ABC Administrator a record on each employee that shall contain the pertinent training information.

REGULATORY LICENSE FEE

Section 15.44 REGULATORY LICENSE FEE IMPOSED

(A) A regulatory license fee is imposed on the gross receipts from retail 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 fee shall be allowed in an amount equal to any licenses or fees imposed under the provisions of this chapter for the retail sale of alcohol.

(B) The initial regulatory license fee shall be seven percent (7%) and shall continue thereafter until amended or repealed.

Section 15.45 PAYMENT

Payment of such fee shall accompany forms approved for use by the ABC Administrator and shall include a tabulation of both gross food sales and alcohol sales for the preceding month. The forms and payment shall be submitted to the City Clerk by the twentieth (20th) day of each month for the preceding month's sales. The fraction, represented by one divided by the number of months for which the City license was issued, of any fees required under the provisions of this chapter shall be deducted each month as a credit.

Section 15.46 FAILURE TO PAY; INTEREST ON LATE PAYMENT

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

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

Section 15.47 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 One Hundred and 00/100 Dollars (\$100.00) shall be assessed for the first offense. An automatic penalty of Two Hundred and 00/100 Dollars (\$200.00) shall be assessed on the second offense, and an automatic penalty of Three Hundred and 00/100 Dollars (\$300.00) shall be assessed on the third offense. In addition to the monetary penalty, the City Alcoholic Beverage Control Administrator shall 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 made on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

Section 15.48 ADEQUATE RECORDKEEPING

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, or such rules and regulations as may be from time to time promulgated by the City Alcoholic Beverage Control Administrator and approved by a majority of a quorum of the City Council. 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 City Alcoholic Beverage Control Administrator or any authorized representative.

Section 15.49 AUDIT REQUIREMENTS

The City Alcoholic Beverage Control Administrator may at his discretion require that a licensee make his records available to the City for the purpose of conducting an audit to verify compliance with the seventy percent (70%) food sales requirement.

Section 15.50 PENALTIES

(A) Any person who violates any provision of this chapter for which no specific penalty is 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 and 00/100 Dollars (\$500.00);
- (2) For any subsequent offense a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00) or confinement in jail not more than six (6) months, or both.

(B) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

PASSED BY THE CITY COUNCIL OF THE CITY OF CALVERT CITY,
KENTUCKY, AT THE FIRST MEETING ON THE 4th DAY OF
April, 2005. PASSED BY THE CITY COUNCIL OF THE CITY OF
CALVERT CITY, KENTUCKY, AT THE SECOND READING ON THE 11th
DAY OF April, 2005.

The members of the City Council voting upon this Ordinance voted as follows:

<u>Member</u>	<u>Vote</u>
<u>TARA BYNUM-COMBS</u>	<u>Yea</u>
<u>RICK COCKE</u>	<u>Yea</u>
<u>NEETA HALE</u>	<u>Yea</u>

Rev. 03-31-05

TIM HAWKINS

Yea

JOHN NELSON

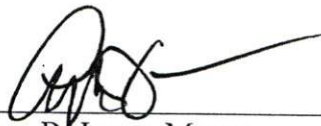
Yea

R. DARYL SMITH

Yea

PASSED: April 11, 2005


Troy E. Truitt, Clerk


Lynn B. Jones, Mayor

ORDINANCE NO. _____

**AN ORDINANCE REGULATING THE SALE OF
ALCOHOLIC BEVERAGES WITHIN THE CITY
LIMITS OF CALVERT CITY, KENTUCKY.**

WHEREAS, an election was held on November 2, 2004, pursuant to KRS 242.185(6) as to whether the City of Calvert City, Kentucky would permit the limited sale of alcoholic beverages within the city limits of Calvert City; and,

WHEREAS, a majority of the citizens of the City of Calvert City have voted in favor of the limited sale of alcoholic beverages; and,

WHEREAS, the City may impose certain restrictions, regulations, and license fees upon such retail establishments that wish to sell alcoholic beverages.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Calvert City, Commonwealth of Kentucky, that the City hereby enacts Chapter 15 of the Code of Ordinances of the City of Calvert City, Kentucky, for the purpose of regulating the sale of alcoholic beverages within the City limits, as follows:

Section 15.1 **SHORT TITLE**

This Chapter shall be known and may be cited as the Alcoholic Beverage Control Ordinance of the City of Calvert City.

Section 15.2 **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.

Section 15.3 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, hereby are 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 15.49.

Section 15.4 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 pertaining to alcoholic beverages.

ADMINISTRATION AND CONTROL

Section 15.5 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

The duties of the City Alcoholic Beverage Control (ABC) Administrator shall be assigned to the office of the City Administrator who shall have the power to designate additional city officials to assist in the responsibilities of the office. The local ABC Administrator and/or his designee shall have the power and authority to promulgate such regulations as may be necessary to implement this chapter.

Section 15.6 OATH AND BOND OF LOCAL ABC ADMINISTRATOR AND EMPLOYEES

(A) Each ABC Administrator before entering upon his duties as such, shall take the oath prescribed in section 228 of the Constitution, and shall execute a bond with a good corporate surety in the amount of not less than one thousand dollars (\$1,000.00).

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

Section 15.7 FUNCTIONS, DUTIES AND POWERS

(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, as provided in KRS 241.060, except that no regulation of the ABC Administrator shall be less stringent than the statutes relating to alcoholic beverage control, or the regulations of the Board. No regulation of the ABC Administrator shall become effective until approved by the Board.

(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.

Section 15.8 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 any City of Calvert City 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.

Section 15.9 RIGHT OF INSPECTION

The City ABC Administrator, his designee and City of Calvert City law enforcement officers shall have available at all reasonable times for their inspection all books and records required to be maintained by licensees 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.

Section 15.10 APPEALS FROM DECISIONS OF THE 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 upon an original proceeding.

LICENSES AND TAXES

Section 15.11 LICENSE REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverage, nor manufacture or transport any alcoholic or malt beverages 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.

Section 15.12 LIMITED RESTAURANT ALCOHOLIC BEVERAGE BY THE DRINK LICENSE; FEES

(A) The City shall have the power and authority to issue licenses for the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons inside the building and derive a minimum of seventy percent (70%) of their annual gross receipts from the sale of food. The fee for this city license will be \$800.00 per year.

(B) The City license fee for the sale of alcoholic beverages during extended hours will be \$0.00 per year.

(C) The City license fee for the sale of alcoholic beverages on Sunday will be \$0.00 per year.

(D) Whenever any person or entity has been licensed by the State Alcoholic Beverage Control Commission to manufacture or traffic in alcoholic beverages within the City of Calvert City pursuant to any

provision of Chapters 241 through 244 of the Kentucky Revised Statutes [other than KRS 242.185(6)], upon issuance of the state license, such state licensee shall apply to the City of Calvert City for a supplemental City license for the privilege of manufacturing and/or trafficking in alcoholic beverages within the City of Calvert City. The annual City license fee for a Caterer's License shall be \$800.00. Otherwise, the annual license fee for any supplemental City license shall be the maximum amount provided in KRS 243.070(11) for that particular license.

The fees set forth in this section may be amended from time to time if not inconsistent with applicable statutes of the Commonwealth.

Section 15.13 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 March 31 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 if less than six (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.

Section 15.14 PERSONS WHO MAY NOT BE LICENSED

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

Section 15.15 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 possession of the premises under a written lease or a permit for a term of not less than the license period.

Section 15.16 BUSINESSES AUTHORIZED BY RETAIL DRINK LICENSE

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. A licensee may purchase wine in containers not smaller than one hundred (100) milliliters if the wine does not exceed fourteen percent 14% alcohol by volume. A licensee may buy mixed drinks in containers of a capacity not smaller than three hundred fifty-five (355) milliliters if the mixed drinks contain a substantial

proportion of carbonated water. A retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package.

Section 15.17 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, shall before applying for a license advertise, by publication in The Lake News, his or her intention to apply for a license as stipulated in KRS 243.360.

Section 15.18 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.

Section 15.19 APPLICATION FOR STATE LICENSE

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

Section 15.20 SUBMITTAL OF APPLICATION

An applicant for a license under this chapter shall file with the City Alcoholic Beverage Control Administrator a copy of his anticipated 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.

Section 15.21 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. In addition to the foregoing, no license shall be issued for any sale of alcoholic beverages

within 1,000 feet of the property of any institution of public or private education.

- (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 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 to the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension, in the discretion of the ABC Administrator. The City ABC Administrator may, in his discretion, approve a license to sell after receiving from the City Clerk/Treasurer, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Clerk/Treasurer 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.
- (D) **Failure to Meet Seating Standards.** A cause for refusal to issue or renew a license and for suspension or revocation of a city license shall occur if the licensee ceases either to provide a minimum of one hundred (100) seats or derive a minimum of seventy percent (70%) of their annual gross receipts from the sale of food.

Section 15.22 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 be issued. The City ABC Administrator 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 City ABC Administrator. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided by law.

Section 15.23 PAYMENT OF FEES, REFUND OF FEE

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 the payment of a license fee was erroneously made or the licenses are not issued, the City shall authorize the payment of the refundable amount.

Section 15.24 ISSUANCE OF CITY LICENSES

The City licenses shall be issued and the fees collected by the City Clerk/Treasurer. No license shall be issued by the Clerk without the approval of the City ABC Administrator. The license shall be in a form prescribed by the City ABC Administrator complying with the provisions of KRS 243.440 and specifically identified as a "Limited Restaurant Alcoholic Beverage by the Drink License". The fees shall be those established in Section 15.12 of this chapter and shall not replace any other fee or tax, including but not limited to the business and occupational license tax.

Section 15.25 POSTING OF LICENSES

Each city 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/Treasurer's office as part of the public record.

Section 15.26 TRANSFER, ASSIGNMENT, OR ACQUIRE EXISTING LICENSE

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

Section 15.27 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.

Section 15.28 DEPOSIT OF FEES

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.

Section 15.29 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 continue 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 for license to sell alcoholic beverages upon or within properties to be constructed or pending the approval of a Zoning Compliance Certificate from the City, or otherwise based upon pending construction or development upon the premises shall be null and void after ninety (90) days from 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. The ABC Administrator may grant extensions, as he deems appropriate in exercise of his sound discretion based upon 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 ABC Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his 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.

PROHIBITIONS, RESTRICTIONS AND REGULATIONS

Section 15.30 HOURS OF SALE

(A) Retail Sale for Consumption on Licensed Premises. Premises for which there has 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 12:00 midnight each weekday. However, sales may not be conducted at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate area within his licensed premises capable of being locked and closed off within which is kept all stock of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

(B) No alcoholic beverages may be sold or dispensed on Sundays, unless pursuant to paragraph (C) below.

(C) The licensee may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs, provided that the appropriate licenses have been obtained from both the City and the State ABC Commission. If New Year's Eve falls on Sunday, alcoholic beverages may be sold and dispensed after 5:00 p.m.; if New Year's Day falls on Sunday, then alcoholic beverages may be sold and dispensed until 2:00 a.m. on January 1; provided that in either instance, the appropriate licenses for Sunday sales and for extended sales must be obtained from both the City and the State ABC Commission. In either event, there shall be no additional City license fee imposed.

(D) Control of Premises During Closed Hours. During the closed 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 closed 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 closed hours for a party or for any other purposes.

Section 15.31 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.

Section 15.32 FOOD SERVICE REQUIREMENT

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.

Section 15.33 CONFISCATIONS 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, a prima facie presumption shall arise that such 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 the violation of this chapter, the City Alcoholic Beverage Control Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

Section 15.34 ADVERTISING RESTRICTIONS

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

Section 15.35 TREATING PROHIBITED

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

Section 15.36 LICENSEE TO PURCHASE FROM AND SELL ONLY TO
PERSONS AUTHORIZED TO SELL OR PURCHASE

(A) No licensee shall purchase or 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 of a special agent's or solicitor's 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 agent's or solicitor's license.

Section 15.37 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 purchaser's 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.

(D) Except as provided in Section C above, anyone known to the seller to have been convicted of 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.

Section 15.38 SALE TO PERSON NOT PROVIDING FOR HIS FAMILY
PROHIBITED

No licensee shall sell or agree to sell any alcoholic beverages or cause or permit any alcoholic beverage to be sold to any person who has been reported to the licensee by any court or by any officer acting at the direction of a court as having failed to make proper provision for his family.

Section 15.39 LICENSEE TO DISPLAY NOTICE AS TO 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 (\$100.00) 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 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.

Section 15.40 MINORS NOT TO POSSESS OR PURCHASE LIQUOR
NOR 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 or receiving 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 licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(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.

Section 15.41 PERSONS WHOM 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 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) of subsection (A) of this section shall not apply if the employee's duties do not involve the sale, service, 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.

Section 15.42 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 a fire, hazard, or other emergency; or
- (4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or
- (5) Conducting promotional efforts that are not customary or usual for a restaurant operation (i.e. wet t-shirt contest, etc.).

Sec. 15.43 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

(A) All persons employed as managers in the selling and serving of alcoholic beverages shall participate in and satisfactorily complete the STAR Certification Program sponsored and conducted by the Kentucky Alcoholic Beverage Commission.

(B) All persons required to complete training, under paragraph (A) above, shall complete that training within one hundred eighty (180) 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 accordance with the STAR Program (or its equivalent as subsequently may be sponsored and approved by the Kentucky Alcoholic Beverage Commission) not less than once every three years.

(C) Each restaurant licensed by this ordinance must at all times that alcoholic beverages are being served have upon the premises and on duty at least one person currently certified in accordance with the foregoing standards.

(D) The manager of the restaurant shall be responsible for compliance with these requirements and shall maintain for inspection by the City ABC Administrator a record on each employee that shall contain the pertinent training information.

REGULATORY LICENSE FEE

Section 15.44 REGULATORY LICENSE FEE IMPOSED

(A) A regulatory license fee is imposed on the gross receipts from retail 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 fee shall be allowed in an amount equal to any licenses or fees imposed under the provisions of this chapter for the retail sale of alcohol.

(B) The initial regulatory license fee shall be seven percent (7%) and shall continue thereafter until amended or repealed.

Section 15.45 PAYMENT

Payment of such fee shall accompany forms approved for use by the ABC Administrator and shall include a tabulation of both gross food sales and alcohol sales for the preceding month. The forms and payment shall be submitted to the City Clerk by the twentieth (20th) day of each month for the preceding month's sales. The fraction, represented by one divided by the number of months for which the City license was issued, of any fees required under the provisions of this chapter shall be deducted each month as a credit.

Section 15.46 FAILURE TO PAY; INTEREST ON LATE PAYMENT

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

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

Section 15.47 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 One Hundred and 00/100 Dollars (\$100.00) shall be assessed for the first offense. An automatic penalty of Two Hundred and 00/100 Dollars (\$200.00) shall be assessed on the second offense, and an automatic penalty of Three Hundred and 00/100 Dollars (\$300.00) shall be assessed on the third offense. In addition to the monetary penalty, the City Alcoholic Beverage Control Administrator shall 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 made on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

Section 15.48 ADEQUATE RECORDKEEPING

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, or such rules and regulations as may be from time to time promulgated by the City Alcoholic Beverage Control Administrator and approved by a majority of a quorum of the City Council. 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 City Alcoholic Beverage Control Administrator or any authorized representative.

Section 15.49 AUDIT REQUIREMENTS

The City Alcoholic Beverage Control Administrator may at his discretion require that a licensee make his records available to the City for the purpose of conducting an audit to verify compliance with the seventy percent (70%) food sales requirement.

Section 15.50 PENALTIES

(A) Any person who violates any provision of this chapter for which no specific penalty is 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 and 00/100 Dollars (\$500.00);
- (2) For any subsequent offense a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00) or confinement in jail not more than six (6) months, or both.

• Rev. 03-14-05

(B) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

JOHN WARD
CITY ADMINISTRATOR

ATTEST:

TROY E. TRUITT, CITY CLERK