

CITY OF CENTRAL CITY, KENTUCKY
ORDINANCE BILL #2013— 10

AN ORDINANCE AMENDING ORDINANCE KOC #410.01, ENTITLED:
"ALCOHOLIC BEVERAGE CONTROL ORDINANCE OF THE CITY
OF CENTRAL CITY, KENTUCKY"

AN ORDINANCE AMENDING KOC #410.01 ENTITLED "ALCOHOLIC BEVERAGE CONTROL ORDINANCE OF THE CITY OF CENTRAL CITY, KENTUCKY" TO INCORPORATE MANDATORY CHANGES REGARDING ALCOHOL LICENSES AND TO AMEND THE REGULATORY FEE

BE IT ORDAINED BY THE CITY OF CENTRAL CITY, KENTUCKY, AS FOLLOWS:

1. Sections 3.01 thru 3.08 of ordinance KOC#401.01 entitled "Alcoholic Beverage Control Ordinance of the City of Central City, Kentucky" is amended as follows:

Section 3.01: NUMBER OF LICENSES

The number of licenses hereunder issued in the City shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243 or 244 and all State administrative regulations promulgated pursuant thereto, as may be amended from time to time.

Section 3.02: NQ -RETAIL MALT BEVERAGE PACKAGE LICENSE

(A) The City shall have the power and authority to issue an NQ-Retail Malt Beverage Package License upon proper application and payment of the prescribed fee.

This section shall not be construed to limit the City's authority under KRS 242.185(4) and any Section contained in this Ordinance, or any other provision of law, to issue licenses permitted under KRS 243.070.

(B) The NQ-Retail Malt Beverage Package License permits malt beverage package sales only for consumption off the premises.

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ALCOHOL
BEVERAGE CONTROL

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1. Sections 3.01 thru 3.08 of ordinance KOC#401.01 entitled “Alcoholic Beverage Control Ordinance of the City of Central City, Kentucky” is amended as follows:

Section 3.01: NUMBER OF LICENSES

The number of licenses hereunder issued in the City shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243 or 244 and all State administrative regulations promulgated pursuant thereto, as may be amended from time to time.

Section 3.02: NQ –RETAIL MALT BEVERAGE PACKAGE LICENSE

(A) The City shall have the power and authority to issue an NQ-Retail Malt Beverage Package License upon proper application and payment of the prescribed fee.

This section shall not be construed to limit the City’s authority under KRS 242.185(4) and any Section contained in this Ordinance, or any other provision of law, to issue licenses permitted under KRS 243.070.

(B) The NQ-Retail Malt Beverage Package License permits malt beverage package sales only for consumption off the premises.

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(C) The fee for an NQ-Retail Malt Beverage Package License shall be SIX hundred dollars (\$600.00), per annum for a renewal license.

Section 3.03: NQ-2-RETAIL DRINK LICENSE

(A) The City Council of the City, pursuant to KRS 242.185, has determined that economic hardship exists within the City, as is evidenced by its high rate of unemployment, slow rate of growth, loss due to destruction of a significant number of commercial buildings, both in the Central Business District, and elsewhere, and a significant number of vacancies in the remaining commercial buildings in the City. The City Council has further determined that the licensing authorization contained in this Ordinance and this Section could aid economic growth. Further, the City Council adopts this Ordinance, i.e. the "Alcoholic Beverage Control Ordinance of the City of Central City", as a comprehensive, regulatory ordinance covering, inter alia, the licensing and operation of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(B) An NQ-2-Retail Drink License may be issued to an applicant who is an owner or lessee of a restaurant which receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of one hundred (100) persons at tables.

(C) An NQ-2-Retail Drink License may be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons at tables. The requirements as set forth Sections (B) and (C) are in accord with KRS 242.1295.

- (D) An NQ-2-Retail Drink License shall authorize a licensee to purchase, receive and sell distilled spirits, wine and/or malt beverages at retail for consumption on the licensed premises. Such licensee shall purchase distilled spirits, wine and malt beverages only from licensed wholesalers.
- (E) The fee for an NQ-2-Retail Drink License shall be eight hundred dollars (\$800.00) per annum.
- (F) Unless a different license fee is provided for in this Ordinance, the City of Central City license fee for any license authorized by KRS 243.979 shall be the maximum license fee allowed to the City by KRS 243.070, as it may be amended from time to time.
- (G) All regulations which may be issued to administer KRS 242.185, this section of the Ordinance, and any other provision of this Ordinance or State law, shall conform to the requirements of KRS 241.190.

Section 3.04: NQ-3-RETAIL DRINK LICENSE

- (A) The City shall have the power and authority to issue an NQ-3- Retail Drink License to any nonprofit social, fraternal, military or political organization or club, which for more than one year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded. The license shall authorize the licensee to sell distilled spirits, wine and malt beverages by the drink for consumption on the licensed premises. All restrictions and prohibitions applying to any other license contained in this Ordinance shall apply to a licensee holding a license pursuant to this section of the Ordinance.

(B) The fee for an NQ-3-Retail Drink License shall be three hundred dollars (\$300.00) per annum.

Section 3.05: NQ-4-RETAIL MALT BEVERAGE DRINK LICENSE.

(A) An NQ-4- Retail Malt Beverage Drink License may be issued to an applicant who is an owner or lessee of a restaurant which receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of has a minimum seating capacity of fifty (50) persons at tables.

(B) An NQ-4-Retail Malt Beverage Drink License shall authorize a licensee to purchase, receive and sell malt beverages at retail for consumption on the licensed premises. Such licensee shall purchase malt beverages only from licensed wholesalers.

(C) The fee for an NQ-4-Retail Malt Beverage Drink License shall be two hundred dollars (\$200.00) per annum.

Section 3.06: QUOTA RETAIL PACKAGE LICENSE

(A) The City shall have the power and authority to issue a Quota Retail Package License upon proper application and payment of the prescribed fee. This section shall not be construed to limit the City's authority under KRS 242 and any Section contained in this Ordinance, or any other provision of law to issue licenses permitted under KRS 243.070.

(B) The Quota Retail Package License permits wine and distilled spirits sales only for consumption off the premises.

(C) The fee for a Quota Retail Package License shall be six hundred dollars (\$600.00), per annum for a renewal license.

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Section 3.07: MANDATORY S.T.A.R. TRAINING - LICENSEES and EMPLOYEES

The City of Central City mandates that all licensees and any employee of a licensee with any alcohol related job duties in their job description receive Server Training in Alcohol Regulations (S.T.A.R.) within ninety (90) days of employment by licensee. Certificates of training must be kept by the employer/licensee for inspection by the CCABC. Whether the employer or employee shall pay the fee associated with such training is at the discretion of the employer. Training will be available upon request, from the State Alcohol Beverage Control office

Section 3.08: MISCELLANEOUS

- (A) In order to sell both wine and distilled spirits as well as malt beverages for off premises consumption (i.e. a retail liquor store), a licensee must possess both a Quota Retail Package License and an NQ-Malt Beverage Package License.
2. **Section 3.13 (B) of ordinance KOC #401.01 entitled "Alcoholic Beverage Control Ordinance of the City of Central City, Kentucky" is hereby amended to read as follows, no other provision of Section 3.13 is affected hereby:**
- * * *
- (B) No Quota Retail Package License shall be granted for a premises which is located within 1000 feet of any other premises licensed with a Quota Retail Package License. The distance stated herein shall be measured in accordance with KRS 241.075 (3).
3. **Section 5.01 (B) of ordinance KOC #401.01 entitled "Alcoholic Beverage Control Ordinance of the City of Central City, Kentucky" is hereby amended to read as follows, no other provision of Section 5.01 is affected hereby:**
- * * *
- (C) The regulatory license fee shall be five percent (5%) for the licensing year beginning January 1, 2014, and continuing thereafter until amended or repealed.

This ordinance shall take effect upon its passage, approval, and publication as required by law.

This the 16th day of October 2013.

Barry Shaver
Barry Shaver, Mayor

ATTEST:

David G. Rhoades
David G. Rhoades, City Clerk

FIRST READING DATE: September 25th, 2013

Second Reading: October 16th, 2013

ROLL CALL

	<u>YES</u>	<u>NO</u>
CHRISTMAS	<u>✓</u>	<u>_____</u>
COOMBS	<u>✓</u>	<u>_____</u>
HIGGS	<u>_____</u>	<u>✓</u>
JENKINS	<u>✓</u>	<u>_____</u>
LANCASTER	<u>absent</u>	<u>_____</u>
KOPER	<u>✓</u>	<u>_____</u>
MILLER	<u>✓</u>	<u>_____</u>
MOORE	<u>_____</u>	<u>✓</u>
TOTAL:	<u>5</u>	<u>2</u>

CITY OF CENTRAL CITY, KENTUCKY
MUNICIPAL ORDER 2002 - 11

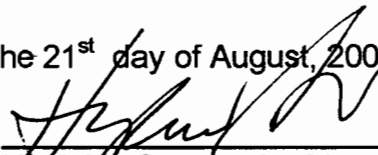
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A MUNICIPAL ORDER DECLARING EXISTENCE OF AN ECONOMIC HARDSHIP
PURSUANT TO KRS 242.185.(2)

IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF
CENTRAL CITY, KENTUCKY, AS FOLLOWS:

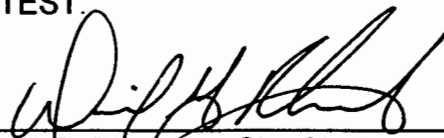
The City Council of the City of Central City does hereby find, declare, and determine that economic hardship exists within the City of Central City, as is evidenced, among other things, by its high rate of unemployment, slow rate of growth, loss due to destruction of a significant number of commercial buildings, both in the Central Business District, and elsewhere, and a significant number of vacancies in the remaining commercial buildings in the City. The City Council has further determined that the licensing authorization contained in subsections "B" and "C" of Section 3.05 of the pending and proposed City of Central City Ordinance Bill #2002-6, entitled "Alcoholic Beverage Control Ordinance of the City of Central City", which provide for the licensing of the sale of alcoholic beverages by the drink, could aid economic growth. This Municipal Order is made expressly for the purpose of complying with the provisions of KRS 242.185(2), but shall not be construed as the exclusive determination meeting the requirements of KRS 242.185(2), as the aforesaid Ordinance 2002-6, upon its passage in the form proposed, makes a like determination.

Passed by vote of the City Council, this the 21st day of August, 2002.



Hugh W. Sweatt, Jr., Mayor

ATTEST:



David G. Rhoades, City Clerk

CITY OF CENTRAL CITY, KENTUCKY
ORDINANCE BILL No. 2002- 6

KOC #410.01

ALCOHOLIC BEVERAGE CONTROL ORDINANCE
" OF THE
CITY OF CENTRAL CITY, KENTUCKY

WHEREAS, by a local option election held pursuant to Chapter 242 of the Kentucky Revised Statutes (KRS), held on July 9, 2002, the electorate of the City of Central City, a City of the fourth class, voted in favor of the discontinuance of prohibition of the sale of alcoholic beverages; and

WHEREAS, Kentucky Revised Statutes provide that cities in which prohibition is no longer in effect have certain requirements, rights, and duties with regard to administration and regulation of the conduct of sale of alcoholic beverages; now, therefore,

BE IT ORDAINED BY THE CITY OF CENTRAL CITY AS FOLLOWS:

Pursuant to KRS Chapters 83A, 241, 242, 243, 244, and all other applicable law, the document attached hereto and made a part hereof by reference, entitled:

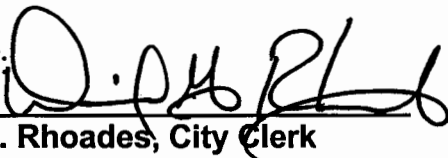
**ALCOHOLIC BEVERAGE CONTROL ORDINANCE
OF THE CITY OF CENTRAL CITY, KENTUCKY**

which consists of 22 printed pages, is hereby adopted as an Ordinance of the City of Central City.

The effective date and provisions for reading and publication of such Ordinance are contained in Section 7.02 thereof.

This the 21st day of August, 2002.

ATTEST:


David G. Rhoades, City Clerk


Hugh W. Sweatt, Jr., Mayor

First Reading: August 14, 2002

Second Reading August 21, 2002

ROLL CALL

	YES	NO
GENTRY	✓	_____
HIGGS	✓	_____
JENKINS	✓	_____
KOPER	✓	_____
MITCHELL	✓	_____
PAXTON	✓	_____
RAY	✓	_____
RICHEY	✓	_____

TOTAL:

8

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ALCOHOLIC BEVERAGE CONTROL ORDINANCE
OF THE
CITY OF CENTRAL CITY, KENTUCKY

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Section 1.02 Incorporation of State Law; Compliance Required

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Article Seven: Effective Date; Severability

Section 7.01 Severability and Interpretation

Section 7.02 Effective Date; Publication and Reading by Summary

Appendix "A" Notice to Minors, Examples of Type

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ARTICLE ONE: GENERAL PROVISIONS

Section 1.01: TITLE

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

Section 1.02: INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED

(A) The provisions of the Kentucky Alcoholic Beverage Control laws contained in Kentucky Revised Statutes (KRS) Chapters 241, 242, 243 and 244, pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control law of the City of Central City, except as otherwise lawfully provided herein. As used herein "State" means the Commonwealth of Kentucky, and "City" means the City of Central City, Kentucky.

(B) Any violation of State law relating to the sale, production, storing, or otherwise trafficking in alcoholic beverages shall also constitute a violation of this Ordinance.

(C) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this ordinance and all State statutes and regulations applicable thereto.

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

Section 1.03: SCOPE OF COVERAGE.

(A) This ordinance shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine where the context permits such applications. Unless the context otherwise admits or requires, the term "alcoholic beverage" or "alcoholic beverages" shall mean and shall include distilled spirits, wine, and malt beverages.

(B) Nothing contained in this ordinance shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the City where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance or ordinances of the City or of any State statutes or regulations.

Section 1.04: DEPOSIT OF FEES, FINES TO GENERAL FUNDS.

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

Section 1.05: NOTICE TO STATE ABC BOARD OF FEES LEVIED

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

ARTICLE TWO: ADMINISTRATION

Section 2.01: OFFICE OF ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR ESTABLISHED

(A) Pursuant to KRS 241.160, the office of Central City Alcoholic Beverage Control Administrator (CCABC) is created.

(B) Pursuant to KRS 241.170, the City Alcoholic Beverage Control Administrator (CCABC) shall be appointed by the Mayor, and such appointment shall be approved by the City Council. The City Alcoholic Beverage Administrator (CCABC) shall serve at the pleasure of the Mayor.

(C) The City has heretofore, in Ordinance KOC #210.01, created the non-elected city office named "City Administrator". The Alcoholic Beverage Control Administrator official mandated by KRS 241.170 is referred in KRS Chapters 241 through 244 as "city administrator", and the definition of city administrator contained in KRS 141.010(11) provides that this term "...means city alcoholic beverage control administrator". All references to city administrator in KRS Chapters 241 through 244 shall be construed, for the purposes of this ordinance, to refer to the Central City Alcoholic Beverage Control Administrator (CCABC), and not the City Administrator office created in City Ordinance KOC #210.01.

Section 2.02: CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR (CCABC) TO ENFORCE

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

Section 2.03: FUNCTIONS; DUTIES AND POWERS

(A) The functions of the CCABC shall be the same with respect to City licenses and regulations as is the function of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to State licenses and regulations, except that no regulation of the CCABC shall be less stringent than the State statutes and regulations relating to alcoholic beverage control. No regulation of the CCABC shall become effective until it has been approved by the Board.

(B) The CCABC 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 CCABC, on his or her own initiative, or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this Ordinance.

Section 2.04: ADMINISTRATOR TO HAVE POLICE POWER

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

Section 2.05: RIGHT OF INSPECTION.

The CCABC shall have access at all reasonable times, for inspection, all books and records required to be maintained by licensees under KRS 244.150, and shall simultaneously receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

ARTICLE THREE: LICENSING REGULATIONS

Section 3.01: NUMBER OF LICENSES.

The number of retail package, retail drink, retail malt beverage, wholesale malt beverage distributors and wholesale distilled spirits distributor licenses issued in the City shall not

exceed the number and type as set forth in KR§ Chapter 241, 242, 243 or 244 and all State administrative regulations promulgated pursuant thereto, as may be amended from time to time.

Section 3.02: DISTILLED SPIRITS AND WINE LICENSES: FEES

The City shall have the power and authority to issue the following types of distilled spirits and wine licenses upon proper application and payment of the prescribed fee. This Section shall not be construed to limit the City's authority under KRS 242.185(4) and Section 3.05 of this Ordinance, or any other provision of law, to issue licenses permitted by KRS 243.070.

<i>License Type</i>	<i>Fee</i>
(A) Wholesaler's license, per annum	\$100
(B) Retail Package license, per annum	\$600
(C) Special Temporary wine license, per month or part of a month	\$ 50
(D) Hotel/Motel/Inn or Restaurant Retail Drink license, per annum	\$600

Section 3.03: MALT BEVERAGE LICENSES, FEES

The City shall have the power and authority to issue the following kinds of malt beverage licenses upon proper application and the payment of prescribed fee:

<i>License Type</i>	<i>Fee</i>
(A) Distributor's license, per annum	\$100
(B) Retailer's license, per annum	\$200
(C) Special Temporary Retail Malt Beverage license, per month or part of a month	\$ 25

Section 3.04: RESTAURANT WINE LICENSE: FEES

(A) A restaurant wine license may be issued to an applicant who is an owner or lessee of a restaurant which receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of fifty (50) persons at tables.

(B) The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2).

(C) A restaurant wine license shall authorize a licensee to purchase, receive and sell wine at retail for consumption on the licensed premises. Such licensee shall purchase wine only from licensed wholesalers.

(D) The fee for a restaurant wine license shall be six hundred dollars (\$600.00) per annum, for a new applicant, and four hundred dollars (\$400.00) per annum for a renewal license.

Section 3.05: CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE

(A) The City Council of the City, pursuant to KRS 242.185, has determined that economic hardship exists within the City, as is evidenced by its high rate of unemployment, slow rate of growth, loss due to destruction of a significant number of commercial buildings, both in the Central Business District, and elsewhere, and a significant number of vacancies in the remaining commercial buildings in the City. The City Council has further determined that the licensing authorization contained in subsections "B" and "C" of this Section could aid economic growth. Further, the City Council adopts this Ordinance, i.e. the "Alcoholic Beverage Control Ordinance of the City of Central City", as a comprehensive, regulatory ordinance covering, *inter alia*, the licensing and operation of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(B) The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages if a malt beverage license is obtained. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons at tables, or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least fifty percent (50%) of their gross revenue from the sale of food; this requirement is and shall be in accord with KRS 242.1295. The fee for such a license shall be six hundred dollars (\$600.00) per annum.

(C) In accordance with KRS 242.185(4), the CCABC is authorized to issue any license permitted by KRS 242.070, and the activity thereby licensed is permitted in accordance with State law and City law.

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(D) Unless a different license fee is provided for in this Ordinance, the City of Central City license fee for any license authorized by KRS 243.070 shall be the maximum license fee allowed to the City by KRS 243.070, as it may be amended from time to time.

(E) All regulations which may be issued to administer KRS 242.185, this section of this ordinance, and any other provision of this ordinance or State law, shall conform to the requirements of KRS 241.190.

Section 3.06: SPECIAL PRIVATE CLUB LICENSE: FEES

(A) The City shall have the power and authority to issue a private club license to any nonprofit social, fraternal, military or political organization or club, which for more than one year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded. The license shall authorize the licensee to exercise the privileges of a retail malt beverage licensee, and distilled spirits and wine retail drink licensee at the designated premises, if the general public is excluded. All restrictions and prohibitions applying to a distilled spirits and wine retail drink license shall apply to a special private club licensee. (KRS 243.270)

(B) The fee for this category of license shall be:

<i>License Type</i>	<i>Fee</i>
Special Private Club License, per annum	\$300

Section 3.08 MALT BEVERAGE CONSUMPTION ON PREMISES

The City Council of the City has determined that it is desirable and appropriate to regulate conduct on premises licensed to sell malt beverages at retail. State law makes no distinction between package sales of malt beverages and sale of malt beverages for consumption on the premises. The City finds that while a number of licensed premises may be suitable for the sale of malt beverages to be removed for consumption elsewhere, there are also a number of premises which are not suitable or appropriate for consumption of malt beverages on the premises. Examples include, but are not limited to, package distilled spirits and wine stores, grocery stores, convenience stores, and premises which do not have adequate facilities for the congregation of customers who are consuming on premises, such as availability of food, adequate restrooms, and at least a minimum of seating for customers.

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(A) Except for special temporary retail malt beverage licenses issued for consumption of malt beverages on the premises, no malt beverage licensee shall allow consumption of any malt beverage on the licensed premises unless the licensee also holds, for the same premises a:

- (1) restaurant wine license, or
- (2) hotel/motel/inn drink license, or
- (3) restaurant drink license, or
- (4) special private club license.

(B) If no license set out in subsection (A) of this section is held by the malt beverage licensee, malt beverage consumption on the premises may nevertheless be allowed by the licensee on a restaurant premises having seating at tables for no less than 50 persons, and which receives no less than fifty percent (50%) of its total of food sales and alcoholic beverage sales from the sale of food.

(C) The intent of this section is to regulate and establish standards of conduct on premises selling malt beverages under license. This section shall not be construed as imposing any limitation upon the number of malt beverage licenses issued pursuant to this Ordinance. Nothing contained in this section shall be construed as prohibiting a licensee from selling malt beverages upon the licensed premises. The sole prohibition contained in this section is allowing consumption of malt beverages on the licensed premises if the nature of the premises does not conform with one of the situations described in (A)(1), (2), (3) or (4); or subsection (B) of this section.

Section 3.09: SPECIAL SUNDAY SALE LICENSES NOT AUTHORIZED.

This Ordinance shall not be construed to authorize City special Sunday sale retail drink licenses.

Section 3.10: LICENSE TERM: RENEWAL.

Applications for renewal of licenses required by this Ordinance shall be made for each license year, which, in order to coincide with the State license year, shall begin the first day of May and extend through the last day of April of the succeeding year. Applications for renewal are to be filed with the CCABC no less than fifteen (15) nor more than forty-five (45) days prior to expiration.

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Section 3.11: PRO-RATION; REFUNDS PROHIBITED.

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

Section 3.12: ASSIGNMENT, TRANSFER, CONTINUANCE, LICENSE REPLACEMENT.

(A) The assignment, transfer, continuance, pledge or hypothecation of City licenses shall be governed by the provisions of KRS 243.630, 243.640, 243.650 and 243.660. An approval by the State, under those statutes, shall be deemed an approval by the City. Non-approval by the State shall be deemed non-approval by the City. No City license may be sold or otherwise transferred (including transfer to another premises) unless the proposed transfer shall have first received the approval of the State Board, and thereafter the acknowledgment of the CCABC is given. A transfer fee of \$25.00 shall be paid to the City.

(B) When a license has been lost or destroyed, the CCABC may issue a duplicate or replacement license upon payment of a fee of \$25.00.

Section 3.13: LOCATION OF BUSINESS RESTRICTED

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

(B) No retail distilled spirits and wine package license shall be granted for a premises which is located within 1000 feet of any other premises licensed for retail distilled spirits and wine package sales. The distance Stated herein shall be measured in accordance with KRS 241.075(3).

Section 3.14: APPLICATION; CONTENTS; EMERGENCY ACTION.

An applicant for a license under this ordinance shall file with the CCABC a copy of such applicant's State license application containing the information required by KRS 243.380 and 243.390. The City application shall include the consent of the applicant permitting the CCABC to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance, statute, or regulation, 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 CCABC, which review shall occur within thirty-six (36) hours of the imposition of the temporary closure.

Section 3.15: APPROVAL OR DENIAL OF APPLICATION.

(A) If upon review of the application, the CCABC may approve the application if the CCABC determines that:

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

(B) If the CCABC has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the CCABC 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 CCABC 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 Administrator. Any decision by the Administrator on the application shall be subject to appeal as provided by law.

Section 3.16: PAYMENT OF FEES.

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

Section 3.17: POSTING OF LICENSES; PUBLIC RECORD

Each City license shall be in substantially the same form prescribed by KRS 243.440 for State licenses, and shall be posted at the licensed premises in the same manner prescribed by KRS

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243.620 for State licenses. An exact duplicate or facsimile of each City license shall remain in the CCABC's office as part of the public record.

Section 3.18: LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL

(A) Under the provisions of the Kentucky Revised Statutes, all administrative regulations promulgated pursuant to the provisions of the Kentucky Revised Statutes, and this ordinance, as they may be amended from time to time, a quota system may exist for the number of licenses to sell alcoholic beverages in the City. Therefore, it is necessary that a licensee actually conduct the business authorized by the license or else the license will be declared dormant and become null and void after ninety (90) days. Because a licensee, like any other business, may suffer an interruption of business by situations not under the licensee's control, various exceptions to this dormancy rule are included in subsection (B).

(B) Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the CCABC, except that any licensee who is unable to continue in business at the licensed premises may apply to the State Alcoholic Beverage Control Department, pursuant to 804 KAR 4:110, as amended from time to time, to continue such license in dormancy. In the event a period of dormancy is applied for or granted by the State, to the licensee, the licensee shall immediately notify the CCABC. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the CCABC and a fee shall be due and payable to the CCABC for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(C) Applications approved by the CCABC and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premises involved. Extensions may be granted by the CCABC as he or she deems appropriate in exercise of sound discretion based on facts and circumstances surrounding each request.

(D) Applications for renewal of licenses and payment of the license fee must be on file with the CCABC at least fifteen (15) days, but not more than forty-five (45) days, before the expiration of the licenses for the preceding license period, or the license shall be canceled. However, the licensee may file a written, verified Statement at least fifteen (15) days prior to the expiration date of the

license, setting forth facts justifying an extension. The CCABC may then extend the time for filing an application for renewal of the license for a reasonable length of time within the exercise of his or her sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

Section 3.19: CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE

(A) Causes for refusal to issue or renew a City license and for suspension or revocation of a City license shall be the same as provided for State licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any City ordinance regarding alcoholic beverage licensing, sales, the administration of licenses, or a licensee allowing conduct on the licensed premises which is prohibited by this Ordinance.

(B) No license to sell alcoholic beverages shall be granted or renewed to any person or other entity delinquent in the payment of any taxes or fees due the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee, upon which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic beverages shall be subject to revocation or suspension. The CCABC may, in his or her discretion, approve a license to sell after receiving from the City Clerk, a written Statement to the effect that the applicant for the license has paid the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees which are due and payable by the licensee.

(C) No retail package liquor license shall be issued for any premises unless the applicant certifies under oath that ninety (90) per cent of the total projected gross receipts from sale made at the licensed premises during the twelve (12) month period following the issuance of the license shall consist of the projected gross receipts from sales of alcoholic beverages. No retail package liquor license shall be renewed for any premises unless ninety (90) per cent of its gross receipts from sales for the immediate past month and the immediate past twelve (12) months have been derived from the sale of alcoholic beverages.

(D) Appeals may be taken from decisions of the CCABC to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

ARTICLE FOUR: SALE OF ALCOHOLIC BEVERAGES

Section 4.01: LICENSE REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic beverages, nor manufacture or transport any alcoholic beverages in the City unless first procuring a license under the provisions of this Ordinance, all State statutes, and all regulations adopted pursuant thereto. This ordinance and those statutes and regulations shall be hereinafter singularly and collectively referred to as the alcoholic beverage control law. The revocation, suspension, non-renewal, or other action which obviates the State license shall also operate to invalidate the corresponding City license.

Section 4.02: HOURS OF SALE

(A) Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted to remain open during the hours of 8:00 a.m. to 12:00 midnight, but shall remain closed during the twenty-four (24) hours of Sunday, Christmas, and at any time when the election polls are open in the precinct in which the licensee's business is located.

(B) 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 8:00 a.m. and 12:00 midnight, but shall be closed during the twenty-four (24) hours of each Sunday, Christmas and at any time when the election polls are open in the precinct in which the license's business is located. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with this subsection.

(C) Retail sales of malt beverages may be made between the hours of 8:00 a.m. and 12:00 midnight each day except that no such sales shall be made during the twenty-four (24) hours of each Sunday, Christmas, or during any time when the polls are open for an election in the precinct in which the license is granted. Premises for which a malt beverage license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or chilled malt

beverages are locked up and/or unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

(D) Any licensee for sales of alcoholic beverages by the drink or package who violates the preceding section shall be deemed guilty of a misdemeanor, shall be punished in accordance with the provisions of this ordinance, and the license shall be subject to revocation or suspension within the discretion of the CCABC.

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

(F) Wholesalers shall not deliver alcoholic beverages on Sunday.

Section 4.03: EXCEPTIONS TO MANDATORY CLOSING TIMES; REQUIREMENTS

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

Section 4.04: CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic beverages are found on the outside of the locked or closed-off department of any licensed premises at any hours during which the licensee is prohibited by the State law or by this Ordinance from selling alcoholic beverages, a prima facie presumption shall arise that such alcoholic beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this Ordinance and the State law, and shall be grounds for revocation or suspension of the license. In addition to other penalties provided for the violation of this Ordinance, the CCABC is hereby authorized to confiscate the alcoholic beverages.

Section 4.05 : ADVERTISING RESTRICTIONS

(A) No sign, banner, poster or other type of display advertising which refers, either directly or indirectly, to alcoholic beverages, shall be displayed on, nor shall it be visible from, the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the window of the licensed premises business price cards not larger than two and one-half (2 1/2) inches in size, setting forth the price at which he offers alcoholic beverages for sale.

(B) No flashing, oscillating, rotating, shimmering, or other lights demonstrating movement, or the illusion of movement, shall be used to illuminate, or be visible from, the exterior of any premises licensed under this ordinance.

(C) It shall be unlawful for any person holding any license under this ordinance to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.

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

Section 4.06: RETAIL SALES TO CERTAIN PERSONS PROHIBITED

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

(A) A minor, except that in any action against a licensee 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 or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. 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) An habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

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(D) Anyone known to the seller to have been convicted of driving under the influence of an intoxicant, or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or of a felony within the preceding twelve (12) months.

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

(A) As used in KRS 244.083 and this section "*premises*" means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

(B) With regard to persons under 21 years of age:

(1) Except as herein provided, no person under 21 years of age shall enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

(2) No person holding any license for on-premises consumption of distilled spirits and wine or a license for retail malt beverage sales, or any clerk, servant, agent or employee thereof shall permit any person under the age of twenty-one (21) years on the licensed premises unless such premises is a restaurant, grocery store, hotel, private club, or upon the premises for a temporary licensed event, including plays or bona fide concerts. In such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.

(3) Minors not accompanied by a parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the hour of 10:00 p.m. unless the minor remains only in the designated restaurant area which is clearly separated from both the barroom area and any area provided for dancing.

(4) The prohibitions set forth in subsections (1), (2) and (3) shall not apply to persons under the age of twenty-one (21) who are working on the premises, either as an employee or an independent contractor, which persons may enter and remain on said premises while they are working, and at no other time.

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(C) A licensee or any of his or her clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he or she:

(1) Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and permits any person under the age of twenty-one (21) to possess or consume any alcoholic beverage on the premises; or

(2) Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and allows or permits any person under the age of twenty-one (21) years to remain on the premises while that person possesses or consumes any alcoholic beverage.

(D) In the event a violation occurs under the provisions of this section, the CCABC shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with 241.160 and 241.190), to determine whether the licensee, at whose business establishment the prohibited activity occurred, may have such license suspended or revoked. In the event three or more violations under the provisions of this section occur at a business establishment within a twelve (12) month period, the CCABC, after a hearing, shall suspend or revoke said license.

(E) No person under twenty-one (21) years of age shall possess for his or her own use, or purchase or attempt to purchase or have another purchase for him or her, any alcoholic beverages. No person shall aid or assist any person under twenty-one (21) years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(F) No person under twenty-one (21) years of age shall misrepresent his or her age for the purpose of inducing any licensee, or other employee of any licensee, to sell or serve any alcoholic beverages to such person.

(G) No person under twenty-one (21) years of age shall use, or attempt to use, any false, fraudulent, or altered identification card or paper, or any other document, to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

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Section 4.08: LICENSEE TO DISPLAY NOTICE REGARDING SALE TO MINORS

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

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

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

(For example, see Appendix A)

ARTICLE FIVE: REGULATORY LICENSE FEE

Section 5.01: 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 the licenses or fees imposed under the provisions of this ordinance.

(B) The regulatory license fee shall be three percent (3%) for the licensing year beginning May 1, 2002, and continuing thereafter until amended or repealed.

Section 5.02: PAYMENT

Payment of the regulatory license fee shall accompany tax returns approved for use by the CCABC and the City Auditor. The return shall be submitted to the CCABC by the twentieth (20th) day of each month for the preceding month's sales. The fraction of the fee required under the

provisions of this ordinance, represented by one divided by the number of months for which the City license was issued, shall be deducted each month as a credit.

Section 5.03: FAILURE TO PAY

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

Section 5.04: INTEREST ON LATE PAYMENTS

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

Section 5.05: ADEQUATE RECORD KEEPING REQUIRED

Every licensee shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the CCABC. 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 CCABC, the City Auditor, or any authorized representatives.

ARTICLE SIX: PENALTIES

Section 6.01: PENALTY FOR NONPAYMENT.

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

Section 6.02: INFRACTION CONSTITUTES A MISDEMEANOR

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

- (1) For the first offense a fine not to exceed five hundred dollars (\$500.00);
- (2) For any subsequent offense a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not more than six (6) months, or both.
- (3) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

(B) In addition to any other penalty provided for herein, any licensee violating any provision of this Ordinance shall be subject to suspension or revocation of such licensee's license, subsequent to a hearing before the CCABC.

ARTICLE SEVEN: EFFECTIVE DATE; SEVERABILITY:

Section 7.01 Severability and Interpretation

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

Section 7.02: Effective date: Publication and Reading by Summary

(A) This Ordinance shall become effective upon its passage, approval, and publication as required by law. However, such effective date shall not operate to change the date upon which prohibition ceases to be in effect in the City pursuant to the local option election held on July 9, 2002.

(B) In accordance with KRS 83A.060, the reading and/or publication of this Ordinance may be made by an Ordinance Summary prepared by the City Attorney.

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APPENDIX A:

NOTICE TO MINORS: EXAMPLE OF TYPE

PERSONS UNDER THE AGE OF TWENTY-ONE (21) ARE SUBJECT TO A FINE UP TO ONE HUNDRED DOLLARS (\$100.00) IF THEY:

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

Alternate language:

IF YOU ARE UNDER 21 YEARS OLD, YOU CAN BE FINED UP TO \$100.00 IF YOU:

- Go into a business which sells alcoholic beverages for the purpose of buying any alcoholic beverage.
- Actually purchase, attempt to purchase, or possess any alcoholic beverage.
- Attempt or actually have someone obtain an alcoholic beverage for you.
- Misrepresent your age in order to purchase or obtain an alcoholic beverage.