

ORDINANCE NO. 21- 2015

**AN ORDINANCE OF THE CITY OF ELIZABETHTOWN, KENTUCKY
REPEALING PREVIOUS ORDINANCES RELATING TO ALCOHOL BEVERAGE CONTROL; CREATING
REGULATIONS FOR THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES**

BE IT ORDAINED by the City of Elizabethtown, Kentucky that from and after the passage, approval and publication of this ordinance, that Ordinances No. 17-2001, 12-2002 and 22-2011 and their amendments are hereby repealed upon the effective date of this ordinance.

BE IT FURTHER ORDAINED that the City of Elizabethtown, Kentucky hereby establishes the following regulations for the sale and consumption of alcoholic beverages as set out below:

TITLE:

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

PURPOSE:

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

DEFINITIONS:

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

SCOPE:

This Ordinance shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this Ordinance shall excuse or relieve the licensee, or the owner, proprietor, employee, agent or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance of the City or of any statutes of the Commonwealth of Kentucky relating to violations pertaining to alcoholic beverages.

ADOPTION OF STATE LAW:

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

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.

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 beverages in any quantity whatever, or cause the same to be done, without complying with all of the provision of this ordinance and all State statutes and regulations applicable thereto.

All prohibitions, restrictions, and regulations pertaining to alcoholic beverage contained in KRS Chapter 241 through 244 shall apply to alcoholic beverage use in the City.

CREATION OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR:

- A. Pursuant to KRS 241.160, there is hereby created the office of City Alcoholic Beverage Control Administrator (hereinafter referred to as City ABC Administrator). The duties of this office are assigned to the office of City Clerk.
- B. The Mayor of the City shall appoint a City ABC Administrator.
- C. The salary for said office, if any, 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 of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City Council.
- E. No person shall be a City ABC Administrator, an ABC 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. (KRS 241.170).
- F. The City ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.
- G. Should the City ABC Administrator at any time have reasonable grounds 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 Elizabethtown Police Department for the purpose of having his or her fingerprints taken.
- H. The City ABC Administrator for entering upon his or her duties as such, shall take the oath 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 five thousand (\$5,000.00) dollars, and shall swear to faithfully perform the duties of his or her office pursuant to the provisions of Section 62.060 of the Kentucky Revised Statutes et seq. The cost of any necessary bond required under this section shall be borne by the City of Elizabethtown.

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

LICENSES:

For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverages in the City and pursuant to the authority of KRS 243.070, there is hereby established a corresponding City license for each of the state licenses described in KRS 243.070. The fee for each City license shall be as set out in the following schedule, and may be amended from time to time as authorized by law.

LICENSE FEES:

Distilled spirit licenses 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 and wine license, per annum	\$3,000.00
(d) Quota retail package license, per annum	\$1,000.00
Quota retail drink license, per annum	\$1,000.00
Special temporary, per event	\$50.00
Nonquota type 1 retail drink license (includes distilled spirits, wine and malt beverages), per annum	\$2,000.00
Nonquota type 2 retail drink license (includes distilled spirits, wine and malt beverages), per annum	\$1,000.00
Nonquota type 3 retail drink license (includes distilled spirits, wine and malt beverages), per annum	\$300.00
Distilled spirits and wine special temporary auction license, per event	\$50.00
Special Sunday retail drink license, per annum	\$0.00
Extended hours supplements license, per annum	\$2,000.00
Caterer's license, per annum	\$0.00
Bottling house or bottling house storage license, per annum	\$1,000.00
Malt beverage licenses as follow:	
(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) Nonquota retail malt beverage package license, per annum	\$200.00

(e) Nonquota type 4 malt beverage drink license, per annum	\$200.00
(f) Malt beverage brew-on premises license, per annum	\$100.00
Limited Restaurant license (includes distilled spirits, wine and malt beverages), per annum	\$1,200.00
Limited golf course license (includes distilled spirits, wine and malt beverages), per annum	\$1,200.00

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.

The holder of a nonquota retail malt beverage package license may obtain a nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board 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 license.

CERTAIN SPECIAL LICENSES DEFINED:

- A. Quota Retail Package License (KRS 243.230, KRS 243.240): The State ABC Board has authorized twelve (12) licenses. A quota Retail Package license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail in unbroken packages only, and only for consumption off the licensed premises.
- B. Quota Retail Drink License (KRS 243.250): The State ABC Board has authorized eleven (11) licenses. A Quota Retail Drink Licenses 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.
- C. Limited Golf Course License (KRS 243.038, KRS 243.039): This license is limited to 850 Pine Valley Drive in the Pine Valley Precinct, an eighteen hole golf course that meets United States Golf Association criteria as a regulation golf course, and which held a local option election for the limited sale of alcoholic beverages in its precinct. Said local option election voted favorably for the lifting of prohibition for the limited sale of alcoholic beverages by the drink for that golf course on June 19, 2001.
- D. Limited Restaurant License (KRS 242.185, KRS 241.010(26), KRS 242.1244, KRS 243.034): This license may be issued to an owner or lessee of a restaurant which receives 70% or more of its gross annual income from the sale of food and has minimum seating capacity of 100 persons at tables. The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food

service staff is on duty. A local option elected voted favorably for the lifting of prohibition for limited sale of alcoholic beverages by the drink for restaurants with 100 seats and 70% food sales on May 28, 2002.

- E. NQ2 Retail Drink License (KRS 243.084): This license authorizes the licensee to purchase, receive and sell distilled spirits, wine and malt beverages at retail for consumption on premises for a restaurant with minimum 50% of gross annual income from food sales and minimum seating capacity of 50 persons at tables. A NQ2 license may be issued to a motel/hotel with a minimum of 50 sleeping rooms, 25,000 square feet of parking, and maintain a restaurant with 50% food sales and minimum seating capacity of 50 people at tables.
- F. NQ3 Retail Drink License (KRS 243.086): This license may be issued to a nonprofit charitable, civic, social, fraternal organization, or political club which has maintained a room from which the general public has been excluded for at least one (1) year.
- G. Special Temporary Licenses (KRS 243.260): This license shall authorize the licensee to exercise the privileges of a quota retail drink license and an NQ4 retail malt beverage drink license at designated premises for a specified and limited time and shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink license or a NQ4 retail malt beverage drink license shall apply also to a special temporary event. A special temporary license will only be issued in conjunction with an organized charitable, civic or community sponsored event, i.e. fairs and festivals. Holidays such as Christmas, Easter and Lent are not considered events.

APPLICATION/LICENSE:

- 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) The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.
 - (2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.
- B. All licenses granted under this section 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 ABC Board and the City of Elizabethtown, as amended and supplemented from time to time.
- C. The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as required by the Kentucky Revised Statutes, the ABC Board and the City of Elizabethtown including as follows:

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Elizabethtown 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;
- (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.

Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City ABC Administrator shall transmit the same to the City Finance Department for deposit into the appropriate designated account.

- D. 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.
- E. All City licenses shall be in such form as may be prescribed by the City Council and shall contain:
 - (1) The name and address of the licensee
 - (2) The number of the license;
 - (3) The type of license;
 - (4) A description by street and number, or otherwise, of the licensed premises;
 - (5) The name of the owner of the building in which the licensed premises is located;
 - (6) The expiration date of the license;
 - (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.
- F. All licenses approved by the City ABC Administrator and issued by the City of Elizabethtown shall begin on February 1 of any year and shall expire on January 31 of the following year.
- G. The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.
- H. Any licenses issued after August 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.
- I. In addition, any other penalties allowed by this section or any other statutory provision, a violation of this section shall authorize and require the revocation of the license and the City shall not be required to refund any portion of the license fee.

REFUND OF LICENSE FEES:

Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the

laws of the State of Kentucky with reference to alcoholic beverage or other causes outside licensee's control, then the City shall refund to the licensee the proportionate license fee based on 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 wrong doing by licensee or agent or employee of the licensee.

LOST OR DESTROYED LICENSES:

When a license has been lost or destroyed without fault on the part of the licensee or his agent or employees, a duplicate in lieu of the original license shall be issued by the City ABC Administrator and the City ABC Administrator shall be satisfied as to the reason, provided however, that the person applying for said duplicate license shall pay a fee of ten dollars (\$10) for issuing said duplicate.

TEMPORARY CLOSING:

In the course of any one day of operation of a licensed premise, should multiple violations of the ordinance or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the City Police Department or City ABC Administrator, such one day multiple occurrences shall be reported to the City ABC Administrator by the Chief of Police. The City ABC Administrator shall, in the interest of public health, safety, morals and welfare, direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City ABC Administrator, such review shall occur on the next business day.

REVOCAION OR SUSPENSION:

- A. Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 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 Ordinance; now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, or referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his 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 would have been required to refuse a license if the facts had been known.

- C. Any license must be revoked or suspended for the following causes:
- (1) Conviction of the licensee or his 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 (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) 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 licensee 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 (1) such felony and one (1) 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 Ordinance 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.
 - (5) Revocation of any license granted under any act of Congress relative to the regulation of manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.
 - (6) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting sports bets; 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.

NOTICE OF LICENSEE; SURRENDER OF LICENSE; HEARING:

- A. Within three (3) 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. The licensee shall at once surrender his license to the City ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the City ABC Administrator shall immediately cause one of his officers to take physical possession of the license and return it to the City ABC Administrator.
- B. When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his stock of alcoholic beverages to an appropriate entity.
- C. Appeal from the decision of the City ABC Administrator shall be to the ABC Board.
- D. If a license is revoked or suspended by an order of the City ABC Administrator, the licensee shall at once suspend all operations previously authorized under his license.

TRANSFER OR ASSIGNMENT:

No license issued under this ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not until a payment of one hundred dollars (\$100) shall be made to the City of Elizabethtown.

REFUSAL OF LICENSE:

A City license shall be refused:

- A. For any cause that the State shall refuse 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; or
- B. If the applicant has committed any act for which a revocation of license would be authorized; or
- C. If the applicant has made any false material statement in his application; or
- D. If the applicant is seeking a license for the sale and distribution of distilled spirits, wine and/or malt based beverages in a sexually oriented business; or
- E. For any reason that the City ABC Administrator which he or she, in the exercise of his or her sound discretion may deem sufficient.

REVIEW OF LICENSE:

Applicants to whom a license is issued authorizing the sale of alcoholic beverages pursuant to this Ordinance shall provide periodic information demonstrating compliance. This document shall be provided on a schedule to be coordinated with the applicant's regulatory fee filings. This information shall consist of a certificate from a Certified Public Accountant, owner or other designate familiar with the applicant's pertinent business records. This certificate shall state:

"I declare, under penalties of perjury, that this return has been examined by me and to the best of my knowledge and belief is a true, correct and complete return."

REGULATORY LICENSE FEE:

- A. A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. Said license fee shall be set by the City Council in the annual budget for each fiscal year and such percentage rate shall be established to generate revenue that does not exceed the total of the reasonable expenses actually incurred by the City in the previous fiscal year for the additional cost, as demonstrated by reasonable evidence, of policing, regulation and administration as the result of the sale of alcoholic beverages within the City. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in the amount equal to the license or fee imposed and such regulatory fee shall

be applied annually from July 1 to June 30.

- B. For Quota Retail Drink License, Quota Retail Package License and Limited Golf Course License, payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall accompany the tax returns approved for such use by the City. These returns and payments are due monthly by the 20th day of the following month at which time one-twelfth (1/12) of the annual fees shall be deducted as a credit.
- C. For all other licenses, payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall accompany the tax returns approved for such use by the City. These returns and payments are due no later than by the end of the month immediately following each calendar quarter at which time one-fourth (1/4) of the annual fees shall be deducted as a credit.
- D. Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subject's licensee to suspension or revocation.
- E. Penalty for failure to file a return and pay monthly remittance by the due date is five percent (5%) of the tax for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, in no case shall the penalty be less than ten dollars (\$10).
- F. Penalty for failure to file a return and pay quarterly remittance by the due date is five percent (5%) of the tax for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, in no case shall the penalty be less than ten dollars (\$10).
- G. Interest at the rate of eight percent (8%) per annum will apply to any late payments.

CHANGE OF INFORMATION:

- A. Since a number of licenses issued by the City are 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 ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.
- C. 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 Kentucky. If Elizabethtown 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;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

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

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 ninety (90) days. Such is the intent of this Ordinance. Realizing that a licensee, like other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this Ordinance.
- 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 City ABC Administrator.
- C. Except that the provisions of subsection (B) hereof 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, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, 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 the ninety (90) days of inactivity, for any of the reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy 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 twelve (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 sound discretion.
- D. All renewal licenses must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be 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 twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing 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 the scheduled 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.

APPROVAL OF PREMISES:

The City ABC Administrator shall not grant any alcoholic beverage license or approve the renewal of a license until said applicant and his place of business shall have been approved by the City Building Official, and any and all other inspections required by the Kentucky Building Code are completed.

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 the issuing of the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. Further, if a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension.

BOOKS, RECORDS, VIDEO/AUDIO AND REPORTS:

- A. Every licensee under this ordinance shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable rules and regulations of the ABC Board. Such books, video/audio 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. Licensees that have video/audio recordings shall be required to maintain all available video/audio recordings for a minimum of seven (7) days, unless other applicable rules and regulations require otherwise.
- C. For the purpose of assisting the City ABC Administrator in enforcement of this section, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the City ABC Administrator.

HOURS FOR SALE AND DELIVERY; RESTRICTIONS:

- A. Upon the licensee being granted a license for the retail or wholesale sales of distilled spirits, wine and malt beverages or the sale of malt based beverages by the drink on its

premises, it shall be permitted to sell or dispense said beverages Monday through Saturday between the hours of 6:00 a.m. and midnight.

- B. The licensee may sell or dispense distilled spirits, malt beverages and wine on Sunday between the hours of 1:00 p.m. and 12:00 a.m.
- C. The licensee may sell or dispense distilled spirits, malt beverages and wine on Election Day during normal times allowed under this section.
- D. The licensee shall provide a separate locked department in which all stocks of distilled spirits and wine are kept during these hours when sales are prohibited. KRS 244.290.
- E. All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur between the hours of midnight and 6:00 a.m. Monday through Saturday. (KRS 244.480) No delivery shall occur on Sunday.

CONDITIONS, PROHIBITIONS AND RESTRICTIONS:

- A. No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance are prohibited and shall not be kept on such premises.
- B. It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Hardin County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.
- C. The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.
- D. It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages nor shall any licensee give away any alcoholic beverage in any quantity for less than a full monetary consideration.
- E. 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.
- F. The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age. The licensee shall check all identifications to ascertain that every person attempting to purchase or consume alcoholic beverages is at least 21 years of age.
- G. The licensee shall display at all times in a prominent place a sign at least 8" x 11" 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.*
- H. The licensee, before commencing any business for which a license has been issued, shall post and display 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. 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.
- I. The licensee shall post in a 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. A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895.
- J. Any off premises signage advertising the sale of alcoholic beverages is prohibited.
- K. No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.
- L. No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:
1. Has been convicted of any felony, misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages, within the last two (2) years;
 2. Is under the age of twenty (20) years who will be serving alcoholic beverages.
 3. Within two (2) years prior to the date of his employment, has had any City license under this Ordinance revoked for cause.
- Violation of this subsection shall subject both employer and employee to penalties provided in this section and shall be cause for revocation of license.
- M. All persons who shall be serving alcoholic beverages shall undergo any training required by the state ABC Office, the cost of which shall be the responsibility of the licensee.
- N. No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premise. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premise. No licensee shall sponsor or permit wet t-shirt or wet clothing contests, lingerie fashion shows, mud wrestling or similar activities, not shall a licensee allow dancing with touching for compensation (including but not limited to wages, tips or gratuities), or any other service, display or contest requiring physical contact between patrons and/or patrons and employees on any licensed premises. No licensee shall sponsor, offer or permit

drinking contests, all-you-can-drink specials or free drinks on any licensed premise in the City.

MANDATORY RESPONSIBLE ALCOHOLIC BEVERAGE SERVICE TRAINING:

- A. All persons involved in the serving of alcoholic beverages by the drink shall participate in and complete a responsible beverage service training program similar to the criteria of the State S.T.A.R. Training Program. A responsible beverage service program shall effectively train its participants in the identification of valid and fake identification, reducing illegal alcohol sales to minors, reducing sales to persons who are already intoxicated, promoting responsible consumption, provide information to sellers and servers to protect themselves from third-party liability lawsuits and educating licensees and servers about Kentucky liquor laws.
- B. All persons required to complete training under paragraph (A) above shall complete that training within thirty (30) days of the date on which the person first becomes subject to the training requirement. When a new business is licensed to serve alcoholic beverages, all employees must be trained prior to the opening of the business. All persons completing the training required by this section shall be re-certified through a responsible alcoholic beverage service training program not less than once every three (3) years thereafter.
- C. The owner of any license serving alcoholic beverages shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the name, job title, date of employment and proof of certification of each seller or server regulated by this section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

MALT BEVERAGE 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 (herein referred to as "licensee") operating within the City of Elizabethtown who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a control label. The label must have a control number, and the name of the business. Each label must be affixed to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:
 - 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 identification label;
 - 4. The purchaser will state 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 valid 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 control officers and other 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 returned with the identification label removed or obliterated.
- F. The City ABC Administrator is authorized to develop appropriate rules and regulation and to develop and make available forms for the identification label and keg registration forms.
- 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 ordinance.
- H. It shall be unlawful for any licensee to sell or offer for sale kegs without the identification label attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have the declaration form visible and readily accessible from the located of the keg. The penalties for violation of this section shall be the penalties as set out in the penalties section of this ordinance. In addition, licensee violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

INFORMATION DEEMED CONFIDENTIAL; PENALTY FOR DISCLOSURE; EXCEPTIONS:

Any information, including returns, documents, or payments made pursuant hereto and any other information gained by the City ABC Administrator or any other official, agent, or employee of the City of Elizabethtown as a result of any return, investigation, hearing or verification required or authorized by the ordinance shall be confidential; except, in accordance with proper judicial order, and any person or agent divulging such information shall, upon conviction, be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisonment not to exceed thirty (30) days, or both, at the discretion of the court. Provided, however, such person may disclose to the Commissioner of the Revenue Cabinet of the State or his or her duly authorized agent, or the Commissioner of Internal Revenue Service, or his or her duly authorized agent, all such information and extend the right to inspect any of the books and records of the City to said Commissioner of the Revenue Cabinet of the State and/or to said Commissioner of the Internal Revenue Service who must grant to the City the reciprocal right to obtain information from the files and records of the Internal Revenue Service and maintain the privileged character of the information so furnished to them.

ENFORCEMENT:

City police officers and the City ABC Administrator or the officers of that department are authorized to enforce this ordinance for alleged violations.

PENALTIES:

The following penalties shall be in addition to any criminal prosecution instituted in Hardin District Court against an alleged violator.

The City ABC Administrator may assess a fine of not more than one thousand dollars (\$1,000.00) per violation. This payment of said fine shall be transmitted to the City Finance Department to be deposited in the appropriate designated account.

Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail for not more than six months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, partnership, joint stock company, association, fiduciary or other business entity, the principal officer or officers responsible for the violation may be imprisoned.

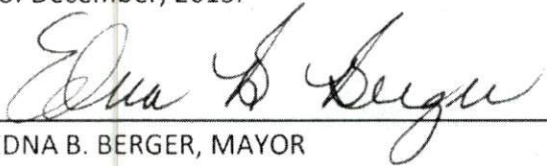
SEVERABILITY:

If a portion of this Ordinance is declared null and void, the remaining provisions will remain in full force and effect.


BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or her designate be and she is hereby authorized and directed to take all steps necessary to perfect this Ordinance including publishing this ordinance in summary.

READ THE FIRST TIME, the 16th day of November, 2015.

READ, ADOPTED AND APPROVED this 7th day of December, 2015.


EDNA B. BERGER, MAYOR

ATTESTED TO:


MARY CHAUDOIN, CITY CLERK

EMERGENCY ORDINANCE NO. 03-2015

**AN ORDINANCE OF THE CITY OF ELIZABETHTOWN, KENTUCKY
AMENDING CODE OF ORDINANCES, SECTION 123A
RELATING TO ALCOHOLIC BEVERAGE CONTROL**

BE IT ORDAINED by the City Council of the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance that Code of Ordinances, 123A (Distilled Spirits and Wine, and Malt Based Beverages) be amended as follows:

§ 123A.07 NUMBER OF ~~[DISTILLED SPIRITS AND WINE]~~ QUOTA LICENSE.

The number of [~~retail distilled spirits and wine package licenses~~] quota licenses issued in the City shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243 and 244 and all administrative regulations promulgated pursuant thereto, and as may be amended from time to time.

The number of [~~such~~] LP Quota Retail Package licenses authorized by the State Alcohol Beverage Control Board is twelve (12). The number of QD Quota Retail Drink Liquor License authorized by the State Alcohol Beverage Control Board is eleven (11).

§ 123A.08 ~~[DISTILLED SPIRITS]~~ QUOTA LICENSES; FEES.

The City shall have the power and authority to issue the following kinds of [~~distilled spirits~~] quota licenses upon proper application and the payment of prescribed fee.

License Type	Fee
LP Quota Retail Package License, per annum	\$1,000.00
<u>QD Quota Retail Drink Liquor License, per annum</u>	<u>\$1,000.00</u>

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board 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.

§ 123A.09 MALT BASE BEVERAGE LICENSE; FEES.

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

License Type	Fee
(A) NQ Retail Malt Beverage Package License, per annum	\$200.00
(B) NQ-4 Retail Malt Beverage Drink License, per annum	\$200.00
(C) Special Temporary License (<u>Distilled Spirits, Malt Beverages & Wine</u>), per event	\$50.00

The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage license for a fee of fifty dollars (\$50).

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant's state application.

Temporary licenses will only be issued in conjunction with organized charitable, civic or community sponsored events, i.e. fairs and festivals. Holidays such as Christmas, Easter and Lent are not considered events. Therefore, temporary licenses will not be issued for holiday seasons. Applicants must obtain temporary licenses for each qualifying event being conducted during a holiday season.

§ 123A.10 RETAIL DRINK LICENSE; FEES.

(A) A NQ2 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 fifty (50) persons at tables. A NQ2 retail drink license shall authorize licensees to purchase, receive and sell distilled spirits, wine and malt beverage ~~only~~ at retail for consumption on the licensed premises. Such licensee shall purchase distilled spirits, wine and malt beverage ~~only~~ from licensed wholesalers. The fee for a NQ2 retail drink 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]~~ \$1,000.00.

(B) A NQ3 retail drink license may be issued to an applicant who is an owner or lessee of a private club which is nonprofit charitable, civic, social, fraternal organization, or political club which has maintained a room from which the general public has been excluded for at least one (1) year. The fee for a NQ3 retail drink license shall be three hundred dollars (\$300) per annum.

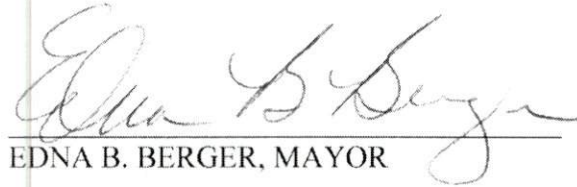
The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant's state

application.

IT IS FURTHER DECLARED that passage of this ordinance and the finalization of the same is an emergency because time is of the essence. The State Alcohol Beverage Control has advertised for sale QD Quota Retail Drink Liquor License and is accepting applications for these licenses within the next thirty days. Therefore, it is found that an emergency does exist and the requirements of a second reading be suspended.

BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or her designate be and she is authorized and directed to take all steps necessary to perfect this Ordinance.

READ, ADOPTED & APPROVED, this 2nd day of March, 2015.


EDNA B. BERGER, MAYOR

ATTESTED TO:


MARY CHAUDOIN, CITY CLERK

ORDINANCE NO. 17-2013

**AN ORDINANCE OF THE CITY OF ELIZABETHTOWN, KENTUCKY
AMENDING CODE OF ORDINANCES, SECTION 122, 123 & 123A
RELATING TO ALCOHOLIC BEVERAGE CONTROL**

BE IT ORDAINED by the City Council of the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance that Code of Ordinances, Sections 122 (Golf Course), 123 (Restaurant & Dining Facilities) and 123A (Distilled Spirits and Wine, and Malt Based Beverages) be amended as follows:

CODE OF ORDINANCES, SECTION 122 (Alcoholic Beverage Control – Golf Course)

§ 122.01 PURPOSE

The purpose of this section is to establish uniform regulations and requirements for the licensing of alcoholic beverage sales at ~~Pine Valley Golf Course~~ the golf course located at 850 Pine Valley Place in the Pine Valley Precinct, an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course, and which held a local option election for the limited sale of alcoholic beverages in its precinct. Said local option election voted favorably for the lifting of prohibition for the limited sale of alcoholic beverages by the drink for that golf course on June 19, 2001.

§ 122.04 LICENSES

Under this section a license shall only be extended to the owners and/or operators of the ~~Pine Valley Golf Course~~ golf course located at 850 Pine Valley Place in the Pine Valley Precinct, a regulation 18 hole golf course as recognized by the United States Golf Association, which rests within a precinct which has lifted prohibition on a limited basis for the sale of alcoholic beverages by the drink on those premises.

§ 122.21 HOURS FOR SALE AND DELIVERY; RESTRICTIONS

- (a) Upon the licensee being granted a license for the retail sales of distilled spirits, wine and malt beverages by the drink for consumption on its premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.
- (b) The licensee may sell or dispense distilled spirits, wine and malt beverages by the drink for consumption on its premises on Sunday between the hours of 1:00 p.m. and 12:00 a.m.
- (c) All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

~~The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular or primary election day.~~

~~_____ The licensee shall remain closed during the hours the polls are open on any regular or primary election day unless it can provide a separate locked department in which all stock of distilled spirits, wine and malt beverages are kept during the hours the polls are open. KRS 244.290.~~

CODE OF ORDINANCES, SECTION 123 (Alcoholic Beverage Control – Restaurants & Dining Facilities)

§ 123.01 PURPOSE

The purpose of this section is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS 242.185 (6) 241.010(31) and 243.034 for any restaurant or dining facility which seats a minimum of 100 persons and which derives a minimum of seventy (70%) percent of its gross receipts from the sale of food. To realize this intent, the City shall implement this Ordinance in such a manner as to assure that:

- (a) Restaurants and dining facilities licensed under this section shall seat a minimum of one hundred (100) persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. Said seating must comply with all fire and safety capacity ratings and regulations.
- (b) The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty.

Restaurants and dining facilities licensed under this section shall derive a minimum of seventy (70%) percent of their gross receipts from the sale of food as certified by periodic documentation.

§ 123.04 LICENSES

Under this section a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 242.185(6) 241.010(31) and 243.034.

§ 123.22 HOURS FOR SALE AND DELIVERY; RESTRICTIONS

- (a) Upon the licensee being granted a license for the retail sales of distilled spirits, wine and malt beverages by the drink for consumption on its premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.
- (b) The licensee may sell or dispense distilled spirits, malt beverages and wine on Sunday between the hours of 1:00 p.m. and 12:00a.m.
- (c) The licensee shall provide a separate locked department in which all stocks of distilled spirits, wine and malt beverages are kept during these hours when sales are prohibited. KRS 244.290.
- (d) All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

~~The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular or primary election day.~~

~~_____ The licensee shall remain closed during the hours the polls are open on any regular or primary election day unless it can provide a separate locked department in which all stock of distilled spirits, wine and malt beverages are kept during the hours the polls are open. KRS~~

244.290.

CODE OF ORDINANCES, SECTION 123A (Alcoholic Beverage Control – Distilled Spirits and Wine, and Malt Based Beverages)

§ 123A.08 DISTILLED SPIRITS AND WINE; FEES.

The City shall have the power and authority to issue the following kinds of distilled spirits licenses upon proper application and the payment of prescribed fee.

License Type	Fee
(A) Distilled spirits and wine retail package license, per annum	\$1,000.00
(B) Special temporary wine license, per event	\$50.00
<u>LP Quota Retail Package License, per annum</u>	<u>\$1,000.00</u>

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board 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.

~~Temporary licenses will only be issued in conjunction with organized charitable, civic or community sponsored events, i.e. fairs and festivals. Holidays such as Christmas, Easter and Lent are not considered events. Therefore, temporary licenses will not be issued for holiday seasons. Applicants must obtain temporary licenses for each qualifying event being conducted during a holiday season.~~

§ 123A.09 MALT BASE BEVERAGE LICENSE; FEES.

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

License Type	Fee
(A) Retailer's licenses, per annum	\$200.00
(B) Temporary beer by the drink, per event	\$50.00
(A) <u>NQ Retail Malt Beverage Package License, per annum</u>	<u>\$200.00</u>
(B) <u>NQ-4 Retail Malt Beverage Drink License, per annum</u>	<u>\$200.00</u>
(C) <u>Special Temporary License (Malt Beverages & Wine), per event</u>	<u>\$50.00</u>

The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage license for a fee of fifty dollars (\$50).

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant's state application.

Temporary licenses will only be issued in conjunction with organized charitable, civic or community sponsored events, i.e. fairs and festivals. Holidays such as Christmas, Easter and Lent are not considered events. Therefore, temporary licenses will not be issued for holiday seasons. Applicants must obtain temporary licenses for each qualifying event being conducted during a holiday season.

§ 123A.10 RETAIL DRINK RESTAURANT WINE LICENSE; FEES.

(A) A ~~restaurant wine~~ NQ2 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 fifty (50) persons at tables. ~~(B) A restaurant wine~~ NQ2 retail drink license shall authorize licenses to purchase, receive and sell wine and malt beverage only at retail for consumption on the licensed premises. Such license shall purchase wine and malt beverage only from licensed wholesalers. ~~(C) The fee for a restaurant wine~~ NQ2 retail drink 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.

(B) A NQ3 retail drink license may be issued to an applicant who is an owner or lessee of a private club which is nonprofit charitable, civic, social, fraternal organization, or political club which has maintained a room from which the general public has been excluded for at least one (1) year. The fee for a NQ3 retail drink license shall be three hundred dollars (\$300) per annum.

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant's state application.

§ 123A.25 HOURS FOR SALE AND DELIVERY; RESTRICTIONS.

(A) Upon the licensee being granted a license for the retail or wholesale sales of distilled spirits, wine and malt beverages or the sale of malt based beverages by the drink on its premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.

(B) The licensee may sell or dispense distilled spirits, malt beverages and wine on Sunday between the hours of 1:00 p.m. and 12:00 a.m.

(C) The licensee shall provide a separate locked department in which all stocks of distilled spirits and wine are kept during these hours when sales are prohibited. KRS 244.290.

(D) All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur between the hours of midnight and 6:00 a.m. Monday through Saturday. (KRS 244.480) No delivery shall occur on Sunday.

~~The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular or primary election day.~~

~~The licensee shall remain closed during the hours the polls are open on any regular or primary~~

§ 123A.11 REFUND OF LICENSE FEES.

Should any licensee under this section 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 of Kentucky with reference to alcoholic beverages or other cause outside licensee's control, then the City shall refund to the licensee 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 wrong doing by licensee or agent or employee of the licensee.
(Ord 22-2011, passed 11-21-11)

§ 123A.12 LOST OR DESTROYED LICENSES.

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after he shall be satisfied as to the facts, provided, however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) Dollars for issuing said duplicate.
(Ord. 22-2011, passed 11-21-11)

§ 123A.13 TEMPORARY CLOSING.

In the course of any one day of operation of a licensed premise, should multiple violations of the ordinance or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the City Police Department, such one day multiple occurrences shall be reported to the City ABC Administrator by the Chief of Police. The City ABC Administrator shall, in the interest of public health, safety, morals and welfare, direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City ABC Administrator, such review shall occur on the next business day.
(Ord. 22-2011, passed 11-21-11)

§ 123A.14 REVOCATION OR SUSPENSION.

(A) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 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 section now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, or referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his sound discretion deems sufficient.

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

(C) Any license must be revoked or suspended for the following causes:

- (1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the premises licensed.
- (2) Making any false, material statements in an application for a license.

§ 123A.20 CHANGE OF INFORMATION.

(A) Since a number of licenses issued by the City are 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 ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.

(C) 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 Kentucky. If Elizabethtown 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;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

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

(Ord. 22-2011, passed 11-21-11)

§123A.21 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 ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.

(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 City ABC Administrator.

(C) Except that the provisions of subsection (a) hereof 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, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, 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 the ninety (90) days of inactivity, for any of the reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy 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 twelve (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 sound discretion.

CHAPTER 122: ALCOHOLIC BEVERAGE CONTROL – GOLF COURSE

Section

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§ 122.01 PURPOSE

The purpose of this section is to establish uniform regulations and requirements for the licensing of alcoholic beverage sales at the golf course located at 850 Pine Valley Drive in the Pine Valley Precinct, an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course, and which held a local option election for the limited sale of alcoholic beverages in its precinct. Said local option election voted favorably for the lifting of prohibition for the limited sale of alcoholic beverages by the drink for that golf course on June 19, 2001.

(Ordinance No. 17-2001, passed Aug. 13, 2001) (Am. Ord. 17-2013, passed 09-16-2013)

§ 122.02 DEFINITIONS

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

(Ordinance No. 17-2001, passed Aug. 13, 2001)

§ 122.03 SCOPE

This section shall apply to the sale of malt, wine and distilled spirits on the premises of the licensee. Nothing in this section 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 of Kentucky relating to violations pertaining to alcoholic beverages.

Adoption of State Alcoholic Beverage Control law – The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapter 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this section except as otherwise lawfully provided herein. (Ordinance No. 17-2001, passed Aug. 13, 2001)

§ 122.04 LICENSES

Under this section a license shall only be extended to the owners and/or operators of the golf course located at 850 Pine Valley Place in the Pine Valley Precinct, a regulation 18 hole golf course as recognized by the United States Golf Association, which rests within a precinct which has lifted prohibition on a limited basis for the sale of alcoholic beverages by the drink on those premises. (Ordinance No. 17-2001, passed Aug. 13, 2001) (Am. Ord. 17-2013, passed 09-16-2013)

§ 122.05 CREATION OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

- (a) The City hereby creates the office of City Alcoholic Beverage Control Administrator (hereinafter referred to as City ABC Administrator) and assigns the duties of this office to the office of the Finance Director. Said office is created under the powers authorized by KRS 241.160.
- (b) The Mayor of the City shall appoint a City ABC Administrator.
- (c) The salary for said office, if any, 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 of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendments to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City Council.
- (e) No person shall be a City 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. (KRS 241.170).
- (f) The City ABC Administrator shall have all authority as authorized under Chapter 241 through 244 of the Kentucky Revised Statutes.
- (g) Should the City ABC Administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a license, or any stockholder, agent or employee of a licensed corporation, has a criminal record, he shall have the authority to require such person to appear in person at the Elizabethtown Police Department for the purpose of having his or her fingerprints taken.
- (h) The City ABC Administrator for entering upon his or her duties as such, shall take the oath 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 five thousand (\$5,000.00) dollars, and shall swear to faithfully perform the duties of his or her office pursuant to the provisions of Sections 62.060 of the Kentucky Revised Statutes et seq. The Cost of any necessary bond required under this section shall be borne by the City of Elizabethtown.
- (i) Appeals from the order of the City ABC Administrator may be taken to the ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the City ABC Administrator. Matters at issue shall be heard by the Board as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

(Ordinance No. 17-2001, passed Aug. 13, 2001)

§122.06 APPLICATION/LICENSE

- (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) The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.
 - (2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.
- (b) All licenses granted under this section shall be approved by the City ABC Administrator. Application for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board and the City of Elizabethtown, as amended and supplemented from time to time.
- (c) The application shall be verified and shall set forth in detail such information concerning the application and the premises for which the license is sought as required by the Kentucky Revised Statutes, the ABC Board and the City of Elizabethtown including as follows:
- (1) Name and address;
 - (2) Nature of interest;
 - (3) Whether or not a citizen of the United States;
 - (4) Date of birth;
 - (5) Date residence was established in Kentucky, if a resident of Kentucky. If Elizabethtown 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;
 - (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.

Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City ABC Administrator shall transmit the same to the City Finance Department for deposit into the appropriate designated account.

- (d) 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.
- (e) All City licenses shall be in such form as may be prescribed by the City Council and shall contain:
- (1) The name and address of the licensee;
 - (2) The number of the license;
 - (3) The type of license;
 - (4) A description by street and number, or otherwise, 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;
 - (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.
- (f) All licenses approved by the City ABC Administrator and issued by the City of Elizabethtown shall begin on February 1 of any year and shall expire on January 31 of the succeeding year.
- (g) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or condonment of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.
- (h) Any licenses issued after January 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 licenses shall not be less than that for a period of six months.
- (i) In addition, any other penalties allowed by this section or any other statutory provision, a violation of this section shall authorize and require the revocation of the license and the City shall not be required to refund any portion of the license fee.

(Ord. No. 17-2001, passed – Aug. 13, 2001) (Am. Ord. No. 10-2003, passed 05-05-2003) (Am. Ord. No. 02-2010, passed 04-05-10)

§ 122.07 FEES

- (a) The annual City License fee for the sale of wine and distilled spirits shall be \$1,000.00. The City, with approval of the City Council, may increase this fee if allowed by Kentucky Revised Statutes.
- (b) The annual City License fee for the sale of malt beverages shall be \$200.00 per year.
- (c) The City ABC Administrator may require a separate license and fee for each different location on the premises of the licensee which distributes wine or distilled spirits.

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City Licenses shall be issued by the City ABC Administrator upon Receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provision of KRS 243.360, and the fact the ABC Board Administrator has approved the applicant's state application. (Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.08 REFUND OF LICENSE FEES

Should any licensee under this section 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 of Kentucky 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 wrong doing by licensee or agent or employee of the licensee. (Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.09 LOST OR DESTROYED LICENSES

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after he shall be satisfied as to the facts, provided however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) dollars for issuing said duplicate. (Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.10 TEMPORARY CLOSING

In the course of any one day of operation of a licensed premise should multiple violations of this section or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the City Police Department, such reoccurrence shall be reported to the City ABC Administrator by the Chief of Police. The City ABC Administrator shall, in the interest of public health, safety, morals and welfare, direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City ABC Administrator, such review shall occur on the next business day. (Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.11 REVOCATION OR SUSPENSION

- (a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 243 or 244, or any rule or regulation of the ABC Board or of the Department of Revenue relating to the regulation of the manufacture, sale, transportation or taxation of alcoholic beverages or if such licensee shall have violated or shall violate any act of congress or any rule or regulation of any federal board, agency or commission, of this section 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 Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, referred to, irrespective of whether the licensee know of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his sound discretion deems sufficient.

- (b) A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.
 - (c) Any license must be revoked or suspended for the following causes:
 - (1) Conviction of the licensee or his 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 (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall been convicted of two (2) 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 (1) such felony and one (1) 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 provision of any statutes, this section or acts of congress relative to taxation, or for violation of any rules or regulations of the Department of Revenue made in pursuance thereof.
 - (5) Revocation of any license granted under any act of congress relative to the regulation of manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.
 - (6) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.
- (Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.12 NOTICE TO LICENSEE; SURRENDER OF LICENSE; HEARING

- (a) Within three (3) 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. The licensee shall at once surrender his license to the City ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the City ABC Administrator shall immediately cause one of his officers to take physical possession of the license and return it to the City ABC Administrator.
 - (b) When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his stock of alcoholic beverages to an appropriate entity.
 - (c) Appeal from the decision of the City ABC Administrator shall be to the ABC Board.
 - (d) If a license is revoked or suspended by an order of the City ABC Administrator, the licensee shall at once suspend all operations authorized under his license.
- (Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.13 TRANSFER OR ASSIGNMENT

No license issued under this section shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of One Hundred Dollars (\$100.00) shall be made to the City ABC Administrator.

(Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.14 REFUSAL OF LICENSE

A City license shall be refused:

- (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; or
- (c) If the applicant has made any false material statement in his application,

A license (new issuance, transfer or renewal) may be refused by the City ABC Administrator for any reason which he, in the exercise of his sound discretion, may deem sufficient.

(Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.15 REGULATORY LICENSE FEE

- (a) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. Said license fee shall be five (5%) percent of gross sales of alcoholic beverages as set by the City Council. The City Council shall adopt at the beginning of each budget period for each fiscal year such percentage rates 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. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in the amount equal to the license or fee imposed and such regulatory fee shall be applied annually from January 1 to December 31.
 - (b) Payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall accompany the tax return approved for such use by the City Council. These returns and payments are due no later than by the end of the month immediately following each calendar quarter at which time one-fourth (1/4) of the annual fees shall be deducted as a credit.
 - (c) Failure to pay such monthly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension revocation.
 - (d) Penalty for failure to file a return and pay monthly remittance by the due date is five percent (5%) of the tax for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax, provided however, that in no case shall the penalty be less than Ten Dollars (\$10.00).
 - (e) Interest at the rate of eight percent (8%) per annum will apply to any late payments.
- (Ordinance No. 17-2001, passed – Aug. 13, 2001) (Amended Ordinance No. 10-2003, passed 05-05-2003) (Amended Ordinance No. 02-2012, passed 02-21-2012)

§ 122.16 CHANGES OF INFORMATION

- (a) Since a number of licenses issued by the City are in the name of 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 ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.
- (c) 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 Kentucky. If Elizabethtown resident indicate

when residence was established;

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- (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;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

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

(Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.17 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 ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.
- (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 City ABC Administrator.
- (c) Except that the provisions of subsection (a) hereof 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, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, 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 the ninety (90) days of inactivity, for any of the reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy 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 twelve (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 sound discretion.
- (d) All renewal licenses must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be 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 twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing 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.

(Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.18 APPROVAL OF PREMISES

The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the county health department, city building inspector, city and state fire marshal and all other inspections required by the Kentucky Building Code.

(Ordinance No. 17-2001, passed – Aug. 13, 2001)

§ 122.19 DELINQUENT TAXES OR FEES

No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due to the City at the time of 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. Further, if a licensee becomes delinquent in the payment of any taxes or and 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.

(Ordinance No. 17 – 2001, passed – Aug. 13, 2001)

§ 122.20 BOOKS, RECORDS AND REPORTS

- (a) Every licensee under this section shall keep and maintain upon the licensed premises adequate books and records of all transaction involved in the sale of alcoholic beverages in the same manner required by the reasonable 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 review.
- (b) For the purpose of assisting the City ABC Administrator in enforcement of this section, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the City ABC Administrator.

(Ordinance No. 17 – 2001, passed – Aug. 13, 2001)

§ 122.21 HOURS FOR SALE AND DELIVERY; RESTRICTIONS

- (a) Upon the licensee being granted a license for the retail sales of distilled spirits, wine and malt beverages by the drink for consumption on it premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.
- (b) The licensee may sell or dispense distilled spirits, wine and malt beverages by the drink for consumption on its premises on Sunday between the hours of 1:00 p.m. and 12:00 a.m.
- (c) All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

(Ordinance No. 17 – 2001, passed – Aug. 13, 2001) (Amended Ordinance No. 10-2003, passed 05-05-2003)
(Amended Ordinance No. 17-2013, passed 09-16-2013)

§ 122.22 CONDITIONS, PROHIBITIONS AND RESTRICTIONS

- (a) No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.
- (b) It shall be unlawful for any licensee licensed under this section 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 Hardin County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

- (c) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.
- (d) It shall be unlawful for the licensee under this section who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.
- (e) No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, not shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.
- (f) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.
- (g) The licensee shall display at all times in a prominent place a sign at least 8" x 11" in 30 point or large 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.*

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

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

- (i) The licensee shall post in a 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.

A Person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895

- (j) Any off premises signage advertising the sale of alcoholic beverages is prohibited.
- (k) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail license sell to a purchaser for any consideration except for cash at time of purchase.
- (l) No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:
 - (1) Has been convicted of any felony, misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages, within the last two (2) years;
 - (2) Is under the age of twenty (20) years who will be serving alcoholic beverages;
 - (3) Within two (2) years prior to the date of his employment, has had any City license under this section revoked for cause.

Violation of this subsection shall subject both employer and employee to penalties provide in this section and shall be cause for revocation of license.

- (m) Mandatory Responsible Alcoholic Beverage Service Training:

- (1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City approved responsible beverage service training program. For a responsible beverage service program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxications. The City will require enrollment in the Server Training in Alcohol Regulations (S.T.A.R.) program offered by the Education Branch of the State ABC to provide consistency in the training under specific Kentucky law.

- (2) All persons required to complete training under paragraph (1) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement or in the first available approved program following employment if no program is available within sixty (60) days. All person completing training required by this section shall be re-certified in responsible alcoholic beverage service training from a program approved by the City not less than once every three (3) years thereafter.
- (3) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record of file on each employee that shall contain the name, job description, date of employment and proof of certification of each server regulated by this section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

(Ordinance No. 17-2001, passed Aug. 13, 2001) (Am. Ord. No. 05-2008, passed 05-19-2008)

§ 122.23 INFORMATION DEEMED CONFIDENTIAL; PENALTY FOR DISCLOSURE; EXCEPTIONS.

Any information, including returns, documents, or payments made pursuant hereto and any other information gained by the City Director of Finance or any other official, agent, or employee of the City of Elizabethtown as a result of any return, investigation, hearing or verification required or authorized by the ordinance shall be confidential; except, in accordance with proper judicial order, and any person or agent divulging such information shall, upon conviction, be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisonment not to exceed Thirty (30) days, or both, at the discretion of the court, and upon conviction shall be dismissed from employment by the City. Provided, however, such person may disclose to the Commissioner of the Revenue Cabinet of the state or his or her duly authorized agent, or the other Commissioner of Internal Revenue Service, or his or her duly authorized agent, all such information and extend the right to inspect any of the books and records of the City to said Commissioner of the Revenue Cabinet of the state and/or to said Commissioner of the Internal Revenue Service who must grant to the City the reciprocal right to obtain information from the files and records of the Internal Revenue Service and maintains the privileged character of the information so furnished to them.

(Ord. 25-2012, passed 11-19-12)

§ 122.24 ENFORCEMENT

City police officers and the City ABC Administrator are authorized to enforce this section for alleged violations. (Ordinance No. 17 – 2001, passed Aug. 13, 2001)

§ 122.25 PENALTIES

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

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

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

(Ordinance No. 17 – 2001, passed – Aug. 13, 2001)

§ 122.26 SEVERABILITY

If any portion of this section is declared null and void, the remaining provisions will remain in full force and effect. (Ordinance 17-2001, passed – Aug. 13, 2001)

CHAPTER 123: ALCOHOLIC BEVERAGE CONTROL – RESTAURANTS & DINING FACILITIES

Section

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- 123.02 Definitions
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§ 123.01 PURPOSE

The purpose of this section is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS 241-010(31) and 243.034 for any restaurant or dining facility which seats a minimum of 100 persons and which derives a minimum of seventy (70%) percent of its gross receipts from the sale of food. To realize this intent, the City shall implement this Ordinance in such a manner as to assure that:

- (a) Restaurants and dining facilities licensed under this section shall seat a minimum of one hundred (100) persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. Said seating must comply with all fire and safety capacity ratings and regulations.
- (b) The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty.
- (c) Restaurants and dining facilities licensed under this section shall derive a minimum of seventy (70%) percent of their gross receipts from the sale of food as certified by periodic documentation.

(Ord. 12-2002, passed 07-01-2002) (Am. Ord. 17-2013, passed 09-16-2013)

§ 123.02 DEFINITIONS

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

(Ord. 12-2002, passed 07-01-2002)

§123.03 SCOPE

This section shall only apply to the sale of malt, wine and distilled spirits on the premises of the licensee. Nothing in this section 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 of Kentucky relating to violations pertaining to alcoholic beverages.

Adoption of Station Alcoholic Beverage Control law – The provision of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this section except as otherwise lawfully provided herein.

(Ord. 12-2002, passed 07-01-2002)

§ 123.04 LICENSES

Under this section a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 241.010(31) and 243.034.

(Ord. 12-2002, passed 07-01-2002) (Am. Ord. 17-2013, passed 09-16-2013)

§ 123.05 DUTIES OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

- (a) The duties of the office of City Alcoholic Beverage Control Administrator (hereinafter referred to as City ABC Administrator) are assigned to the office of the Finance Director.
- (b) The Mayor of the City shall appoint a City ABC Administrator.
- (c) The salary for said office, if any, 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 of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City Council.
- (e) No person shall be a City 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 241.200. (KRS 241.170).
- (f) The City ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.
- (g) Should the City ABC Administrator at any time have reasonable grounds 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 shall have the authority to require such person to appear in person at the Elizabethtown Police Department for the purpose of having his or her fingerprints taken.
- (h) The City ABC Administrator for entering upon his or her duties as such, shall take the oath 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 five thousand (\$5,000.00) dollars, and shall swear to faithfully perform the duties of his or her office pursuant to the provision of Section 62.060 of the Kentucky Revised Statutes et seq. The cost of any necessary bond required under this section shall be borne by the City of Elizabethtown.
- (i) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the City ABC Administrator. Matters at issue shall be heard by the Board as upon an original proceeding. Appeals from order of the City ABC Administrator shall be governed by KRS Chapter 13B.

(Ord. 12-2002, passed 07-01-2002)

§ 123.06 APPLICATION/LICENSE

- (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) The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.
 - (2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.
- (b) All licenses granted under this section 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 ABC Board and the City of Elizabethtown, as amended and supplied from time to time.
- (c) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as required by the Kentucky Revised Statutes, the ABC Board and the City of Elizabethtown including as follows:
- (1) Name and address;
 - (2) Nature of interest;
 - (3) Whether or not a citizen of the United States;
 - (4) Date of birth;
 - (5) Date residence was established in Kentucky, if a resident of Kentucky. If Elizabethtown 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;
 - (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.
- Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City ABC Administrator shall transmit the same to the City Finance Department for deposit into the appropriate designated account.
- (d) 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.
- (e) All City licenses shall be in such form as may be prescribed by the City Council and shall contain:
- (1) The name and address of the licensee;
 - (2) The number of the license;
 - (3) The type of license;
 - (4) A description by street and number, or otherwise, 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;
 - (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.
- (f) All licenses approved by the City ABC Administrator and issued by the City of Elizabethtown shall begin on February 1 of any year and shall expire on January 31 of the succeeding year. (Ord. 02-2010, passed 04-05-10)
- (g) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.
- (h) Any licenses issued after July 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.

- (i) In addition, any other penalties allowed by this section or any other statutory provision, a violation of this section shall authorize and require the revocation of the license and the City shall not be required to refund any portion of the license fee.

(Ord. 12-2002, passed 07-01-2002)

§ 123.07 FEES

- (a) The annual City License fee for the sale of wine and distilled spirits shall be \$1,000.00. The City, with approval of the City Council, may increase this fee if allowed by Kentucky Revised Statutes.
- (b) The annual City License fee for sale of malt beverages shall be \$200.00 per year.
- (c) The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City Licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board 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.

(Ord. 12-2002, passed 07-01-2002)

§ 123.08 REFUND OF LICENSE FEES

Should any license under this section 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 of Kentucky 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 provided 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 wrong doing by licensee or agent or employee of the licensee.

(Ord. 12-2002, passed 07-01-2002)

§ 123.09 LOST OR DESTROYED LICENSES

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after he shall be satisfied as to the facts, provided, however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) dollars for issuing said duplicate.

(Ord. 12-2002, passed 07-01-2002)

§ 123.10 TEMPORARY CLOSING

In the course of any one day of operation of a licensed premise should multiple violations of the ordinance or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the City Police Department, such reoccurrence shall be reported to the City ABC Administrator by the Chief of Police. The City ABC Administrator shall, in the interest of public health, safety, morals and welfare, direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City ABC Administrator, such review shall occur on the next business day.

(Ord. 12-2002, passed 07-01-2002)

§ 123.11 REVOCATION OR SUSPENSION

- (a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes chapters 241, 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 of 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 section 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 Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his sound discretion deems sufficient.

- (b) A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.
- (c) Any license must be revoked or suspended for the following causes:
 - (1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the premises licensed.
 - (2) Making any false, material statements in an application for license.
 - (3) If, within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) 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 (1) such felony and one (1) such misdemeanor.
 - (4) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, of any penalties imposed by or under the provisions of any statutes, this section 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.
 - (5) Revocation of any license granted under any act of congress relative to the regulation of manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.
 - (6) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

(Ord. 12-2002, passed 07-01-2002)

§ 123.12 NOTICE TO LICENSEE: SURRENDER OF LICENSE: HEARING

- (a) Within three (3) 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. The licensee shall at once surrender his license to the City ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the City ABC Administrator shall immediately cause one of his officers to take physical possession of the license and return it to the City ABC Administrator.
- (b) When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his stock of alcoholic beverages to an appropriate entity.
- (c) Appeal from the decision of the City ABC Administrator shall be to the ABC Board.
- (d) If a license is revoked or suspended by an order of the City ABC Administrator, the licensee shall at once suspend all operations authorized under his license.

(Ord. 12-2002, passed 07-01-2002)

§ 123.13 TRANSFER OR ASSIGNMENT

No license issued under this section shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of One Hundred Dollars (\$100.00) shall be made to the City ABC Administrator.

(Ord. 12-2002, passed 07-01-2002)

§ 123.14 REFUSAL OF LICENSE

A City license shall be refused:

- (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; or
- (c) If the applicant has made any false material statement in his application.

A license (new issuance, transfer or renewal) may be refused by the City ABC Administrator for any reason which he, in the exercise of his sound discretion, may deem sufficient.

(Ord. 12-2002, passed 07-01-2002)

§ 123.15 REVIEW OF LICENSE

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this section shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) 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 quarterly regulatory fee filings.

This information shall consist of a certificate from a Certified Public Accountant, Owner or other designate familiar with the applicant's pertinent business records. This certificate shall state:

"I declare, under the penalties of perjury, that this return has been examined by me and to the best of my knowledge and belief is a true, correct and complete return. I further certify that the Licensee earned at least seventy (70%) percent of its gross receipts from the sale of food during this reporting period."

(Ord. 12-2002, passed 07-01-2002; Amended – Ord. 27-2002, passed 12-16-2002) (Am. Ord. No. 03-2012, passed 02-21-12)

§ 123.16 REGULATORY LICENSE FEE

- (a) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages or each license issued by the City ABC Administrator. Said licensee fee shall be five (5%) percent of gross sales of alcoholic beverages as set by the City Council. The City Council shall adopt at the beginning of each budget period for each fiscal year such percentage rates 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. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed and such regulatory fee shall be applied annually from January 1 to December 31.

- (b) Payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall accompany the tax returns approved for such use by the City Council. These returns and payments are due no later than by the end of the month immediately following each calendar quarter at which time one-fourth (1/4) of the annual fees shall be deducted as a credit.
- (c) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension revocation.
- (d) Penalty for failure to file a return and pay quarterly remittance by the due date is five percent (5%) of the tax for each ninety (90) days of fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, that in no case shall the penalty be less than Ten Dollars (\$10.00).
- (e) Interest at the rate of eight percent (8%) per annum will apply to any late payments.
(Ord. 12-2002, passed 07-01-2002)

§ 123.17 CHANGE OF INFORMATION

- (a) Since a number of licenses issued by the City are in the name of 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 ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.
- (c) The following information will be required concerning any new director, officer, or person securing any interest in alcoholic beverages 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 Kentucky. If Elizabethtown 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;
 - (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

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

(Ord. 12-2002, passed 07-01-2002)

§ 123.18 DORMANCY

- (a) It is necessary that a licensee actually conduct the business authorized by such license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.
- (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 City ABC Administrator.
- (c) Except that the provisions of subsection (a) hereof 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, the

acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, 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 the ninety (90) days of inactivity, for any of the reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy 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 twelve (12) months from the date of notice to the City ABC Administrator. Such extension may not extend beyond the renewal day but may be for such times as the City ABC Administrator deems appropriate in exercise of his sound discretion.

- (d) All renewal licenses must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be 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 twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing 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.

(Ord. 12-2002, passed 07-01-2002)

§ 123.19 APPROVAL OF PREMISES

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

(Ord. 12-2002, passed 07-01-2002)

§ 123.20 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 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. 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.

(Ord. 12-2002, passed 07-01-2002)

§ 123.21 BOOKS, RECORDS AND REPORTS

- (a) Every licensee under this section 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 reasonable 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 review.
- (b) For the purpose of assisting the City ABC Administrator in enforcement of this section, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the City ABC Administrator.

(Ord. 12-2002, passed 07-01-2002)

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§ 123.22 HOURS FOR SALE AND DELIVERY; RESTRICTIONS

- (a) Upon the licensee being granted a license for the retail sales of distilled spirits, wine and malt beverages by the drink for consumption on its premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.
- (b) The licensee may sell or dispense distilled spirits, malt beverages and wine on Sunday between the hours of 1:00 p.m. and 12:00a.m.
- (c) The licensee shall provide a separate locked department in which all stocks of distilled spirits, wine and malt beverages are kept during these hours when sales are prohibited. KRS 244.290.
- (d) All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

(Ord. 12-2002, passed 07-01-2002) (Am. Ord. 17-2013, passed 09-16-2013)

§ 123.23 CONDITIONS, PROHIBITIONS AND RESTRICTIONS

- (a) No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.
- (b) It shall be unlawful for any licensee licensed under this section 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 Hardin County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.
- (c) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.
- (d) It shall be unlawful for the licensee under this section who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.
- (e) 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.
- (f) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.
- (g) The licensee shall display at all times in a prominent place a sign at least 8" x 11" 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.*
- (h) The licensee, before commencing any business for which a license has been issued, shall post and display 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. 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.

- (i) The licensee shall post in a 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. A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895
- (j) Any off premises signage advertising the sale of alcoholic beverages is prohibited.
- (k) No wholesales or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of purchase.
- (l) No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, and person who:
 - (1) Has been convicted of any felony, misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages, within the last two (2) years;
 - (2) Is under the age of twenty (20) years who will be serving alcoholic beverages.
 - (3) Within two (2) years prior to the date of his employment, has had any City license under this section revoked for cause.

Violations of this subsection shall subject both employer and employee to penalties provided in this section and shall be cause for revocation of license.
- (m) All persons who shall be serving alcoholic beverages shall undergo any training required by the State ABC Office, the cost of which shall be the responsibility of the licensee.
- (n) The licensee shall only distribute alcoholic beverages during times in which the licensee's kitchen and food service staff are on duty.
- (o) Mandatory Responsible Alcoholic Beverage Service Training:
 - (1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City approved responsible beverage service training program. For a responsible beverage service program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxications. The City will require enrollment in the Server Training in Alcohol Regulations (S.T.A.R.) program offered by the Education Branch of the State ABC to provide consistency in the training under specific Kentucky law.
 - (2) All persons required to complete training under paragraph (1) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement or in the first available approved program following employment if no program is available within sixty (60) days. All persons completing the training required by this section shall be re-certified in responsible alcoholic beverage service training from a program approved by the City not less than once every three (3) years thereafter.
 - (3) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the name, job description, date of employment and proof of certification of each server regulated by this section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

(Ord. 12-2002, passed 07-01-2002) (Am. Ord. 05-2008, passed 05-19-2008)

§ 123.24 INFORMATION DEEMED CONFIDENTIAL; PENALTY FOR DISCLOSURE; EXCEPTIONS.

Any information, including returns, documents, or payments made pursuant hereto and any other information gained by the City Director of Finance or any other official, agent, or employee of the City of Elizabethtown as a result of any return, investigation, hearing or verification required or authorized by the ordinance shall be confidential; except, in accordance with proper judicial order, and any person or agent divulging such information shall, upon conviction, be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisonment not to exceed Thirty (30) days, or both, at the discretion of the court, and upon conviction shall be dismissed from employment by the City. Provided, however, such person may disclose to the Commissioner of the Revenue Cabinet of

the state or his or her duly authorized agent, or the other Commissioner of Internal Revenue Service, or his or her duly authorized agent, all such information and extend the right to inspect any of the books and records of the City to said Commissioner of the Revenue Cabinet of the state and/or to said Commissioner of the Internal Revenue Service who must grant to the City the reciprocal right to obtain information from the files and records of the Internal Revenue Service and maintains the privileged character of the information so furnished to them.

(Ord. 25-2012, passed 11-19-12)

§ 123.25 ENFORCEMENT

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

(Ord. 12-2002, passed 07-01-2002)

§ 123.26 PENALTIES

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

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

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

(Ord. 12-2002, passed 07-01-2002)

§ 123.27 SEVERABILITY

If a portion of this section is declared null and void, the remaining provisions will remain in full force and effect.

(Ord. 12-2002, passed 07-01-2002)

§ 123.28 EFFECTIVE DATE

Prohibition is lifted for the limited purpose hereinabove effective August 3, 2002.

(Ord. 12-2002, passed 07-01-2002)

**CHAPTER 123A: ALCOHOL BEVERAGE CONTROL – DISTILLED SPIRITS AND WINE, AND MALT
BASED BEVERAGES**

Section

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- 123A.02 Incorporation of State Law
- 123A.03 Scope
- 123A.04 Deposit of Fees, Fines to General Funds
- 123A.05 Duties of the Office of the City Alcoholic Beverage Control Administrator
- 123A.06 Application/License
- 123A.07 Number of Distilled Spirit and Wine License
- 123A.08 Distilled Spirits & Wine; Fees
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- 123A.11 Refund of License Fees
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- 123A.24 Books, Records and Reports
- 123A.25 Hours for Sale and Delivery; Restrictions
- 123A.26 Conditions, Prohibitions and Restrictions
- 123A.27 Information Deemed Confidential; Penalty for Disclosure; Exceptions.
- 123A.28 Enforcement
- 123A.29 Penalties

§ 123A.01 DEFINITIONS.

The definitions of the words used throughout this section, unless the context requires otherwise, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth of Kentucky and all amendments and supplements thereto. (Ord 22-2011, passed 11-21-11)

§ 123A.02 INCORPORATION OF STATE LAW.

(A) The provision of KRS Chapters 241, 242, 243 and 244, are hereby adopted as part of this section, except as otherwise lawfully provided herein. As used herein “State” means the Commonwealth of Kentucky, and “City” means Elizabethtown, 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 section.

(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 beverages in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this section 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 beverages use in the City.
(Ord 22-2011, passed 11-21-11)

§ 123A.03 SCOPE.

(A) This section 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 based beverages.

(B) Nothing contained in this section 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 of Elizabethtown or of any State statutes or regulations.

(C) Adoption of State Alcoholic Beverage Control law -- The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Chapters 241, 242, 243 and 244) and all amendments and supplements thereto, are adopted so far as applicable to this section except as otherwise lawfully provided herein.
(Ord 22-2011, passed 11-21-11)

§ 123A.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS.

All monies derived from license fees or from fines as provided in this section shall be paid to Office of the Finance Director and shall become a part of the general funds of the City.
(Ord 22-2011, passed 11-21-11)

§ 123A.05 DUTIES OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) The duties of the office of City Alcoholic Beverage Control Administrator (hereinafter referred to as City ABC Administrator) are assigned to the office of the Finance Director.

(B) The Mayor of the City shall appoint a City ABC Administrator.

(C) The salary for said office, if any, 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 of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City Council.

(E) No person shall be a City 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. (KRS 241.170).

(F) The City ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.

(G) Should the City ABC Administrator at any time have reasonable grounds 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 shall have the authority to require such person to appear in person at the Elizabethtown Police Department for the purpose of having his or her fingerprints taken.

(I) The City ABC Administrator for entering upon his or her duties as such, shall take the oath 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 five thousand (\$5,000.00) dollars, and shall swear to faithfully perform the duties of his or her office pursuant to the provisions of Section 62.060 of the Kentucky Revised Statutes et seq.

The cost of any necessary bond required under this section shall be borne by the City of Elizabethtown.

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

(Ord 22-2011, passed 11-21-11)

§ 123A.06 APPLICATION/LICENSE.

(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) The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.

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

(B) All licenses granted under this section 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 ABC Board and the City of Elizabethtown, as amended and supplemented from time to time.

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

(1) Name and address;

(2) Nature of interest;

(3) Whether or not a citizen of the United States;

(4) Date of birth;

(5) Date residence was established in Kentucky, if a resident of Kentucky. If Elizabethtown 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;

(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.

Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City ABC Administrator shall transmit the same to the City Finance Department for deposit into the appropriate designated account.

(D) 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.

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

- (1) The name and address of the licensee
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, 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;
- (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.

(F) All licenses approved by the City ABC Administrator and issued by the City of Elizabethtown shall begin on February 1 of any year and shall expire on January 31.

(G) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

(H) Any licenses issued after August 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.

(I) In addition, any other penalties allowed by this section or any other statutory provision, a violation of this section shall authorize and require the revocation of the license and the City shall not be required to refund any portion of the license fee.

(Ord 22-2011, passed 11-21-11)

§ 123A.07 NUMBER OF DISTILLED SPIRITS AND WINE LICENSE.

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

The number of such licenses authorized by the State Alcohol Beverage Control Board is twelve (12).

(Ord. 22-2011, passed 11-21-11)

§ 123A.08 DISTILLED SPIRITS AND WINE; FEES.

The City shall have the power and authority to issue the following kinds of distilled spirits licenses upon proper application and the payment of prescribed fee.

License Type	Fee
LP Quota Retail Package License, per annum	\$1,000.00

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board 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. (Ord. 22-2011, passed 11-21-11) (Am. Ord. 17-2013, passed 09-16-2013)

§ 123A.09 MALT BASE BEVERAGE LICENSE; FEES.

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

	License Type	Fee
(A)	NQ Retail Malt Beverage Package License, per annum	\$200.00
(B)	NQ-4 Retail Malt Beverage Drink License, per annum	\$200.00
(C)	Special Temporary License (Malt Beverages & Wine), per event	\$50.00

The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant’s state application.

Temporary licenses will only be issued in conjunction with organized charitable, civic or community sponsored events, i.e. fairs and festivals. Holidays such as Christmas, Easter and Lent are not considered events. Therefore, temporary licenses will not be issued for holiday seasons. Applicants must obtain temporary licenses for each qualifying event being conducted during a holiday season. (Ord. 22-2011, passed 11-21-11) (Am. Ord. 17-2013, passed 09-16-13)

§ 123A.10 RETAIL DRINK LICENSE; FEES.

(A) A NQ2 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 fifty (50) persons at tables. A NQ2 retail drink license shall authorize licenses to purchase, receive and sell wine and malt beverage at retail for consumption on the licensed premises. Such license shall purchase wine and malt beverage only from licensed wholesalers. The fee for a NQ2 retail drink 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.

(B) A NQ3 retail drink license may be issued to an applicant who is an owner or lessee of a private club which is nonprofit charitable, civic, social, fraternal organization, or political club which has maintained a room from which the general public has been excluded for at least one (1) year. The fee for a NQ3 retail drink license shall be three hundred dollars (\$300) per annum.

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant’s state application. (Ord 22-2011, passed 11-21-11) (Am. Ord. 17-2013, passed 09-16-2013)

(3) If, within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) 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 (1) such felony and one (1) 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 section 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.

(5) Revocation of any license granted under any act of Congress relative to the regulation of manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.

(6) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting sports bets; 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.

(Ord. 22-2011, passed 11-21-11)

§ 123A.15 NOTICE OF LICENSEE; SURRENDER OF LICENSE; HEARING.

(A) Within three (3) 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. The licensee shall at once surrender his license to the City ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the City ABC Administrator shall immediately cause one of his officers to take physical possession of the license and return it to the City ABC Administrator.

(B) When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his stock of alcoholic beverages to an appropriate entity.

(C) Appeal from the decision of the City ABC Administrator shall be to the ABC Board.

(D) If a license is revoked or suspended by an order of the City ABC Administrator, the licensee shall at once suspend all operations authorized under his license.

(Ord. 22-2011, passed 11-21-11)

§ 123A.16 TRANSFER OR ASSIGNMENT.

No license issued under this section shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of One Hundred Dollars (\$100.00) shall be made to the City ABC Administrator.

(Ord. 22-2011, passed 11-21-11)

§ 123A.17 REFUSAL OF LICENSE.

A City license shall be refused:

(A) For any cause that the State shall refuse 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 committed any act for which a revocation of license would be authorized; or
 - (C) If the applicant has made any false material statement in his application.
 - (D) If the applicant is seeking a license for the sale and distribution of distilled spirits, wine and/or malt based beverages in a sexually oriented business.
 - (E) For any reason that the City ABC Administrator which he, in the exercise of his sound discretion may deem sufficient.
- (Ord. 22-2011, passed 11-21-11)

§ 123A.18 REVIEW OF LICENSE.

Applicants to whom a license is issued authorizing the sale of alcoholic beverages pursuant to this section shall provide periodic information demonstrating compliance. This document shall be provided on a schedule to be coordinated with the applicant's regulatory fee filings. This information shall consist of a certificate from a Certified Public Accountant, owner or other designate familiar with the applicant's pertinent business records. This certificate shall state:

I declare, under the penalties of perjury, that this return has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.

(Ord. 22-2011, passed 11-21-11)

§ 123A.19 REGULATORY LICENSE FEE.

(A) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. Said license fee shall be five (5%) percent of gross sales of alcoholic beverages as set by the City Council. The City Council hereby determines that said percentage rate is 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. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed and such regulatory fee shall be applied annually from January 1 to December 31.

(B) For Distilled Spirits and Wine license, payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall accompany the tax returns approved for such use by the City Council. These returns and payments are due monthly by the 20th day of the following month at which time one-twelfth (1/12) of the annual fees shall be deducted as a credit.

(C) For Malt Base Beverage or Restaurant Wine license, payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall accompany the tax returns approved for such use by the City Council. These returns and payments are due no later than by the end of the month immediately following each calendar quarter at which time one-fourth (1/4) of the annual fees shall be deducted as a credit.

(D) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension revocation.

(E) Penalty for failure to file a return and pay quarterly remittance by the due date is five percent (5%) of the tax for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, in no case shall the penalty be less than Ten Dollars (\$10.00).

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

(Ord. 22-2011, passed 11-21-11)

(D) All renewal licenses must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be 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 twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing 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.

(Ord. 22-2011, passed 11-21-11)

§ 123A.22 APPROVAL OF PREMISES.

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

(Ord. 22-2011, passed 11-21-11)

§ 123A.23 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 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. 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.

(Ord. 22-2011, passed 11-21-11)

§ 123A.24 BOOKS, RECORDS AND REPORTS.

(A) Every licensee under this section 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 reasonable 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 review.

(B) For the purpose of assisting the City ABC Administrator in enforcement of this section, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the City ABC Administrator.

(Ord. 22-2011, passed 11-21-11)

§ 123A.25 HOURS FOR SALE AND DELIVERY; RESTRICTIONS.

(A) Upon the licensee being granted a license for the retail or wholesale sales of distilled spirits, wine and malt beverages or the sale of malt based beverages by the drink on its premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.

(B) The licensee may sell or dispense distilled spirits, malt beverages and wine on Sunday between the hours of 1:00 p.m. and 12:00 a.m.

(C) The licensee shall provide a separate locked department in which all stocks of distilled spirits and wine are kept during these hours when sales are prohibited. KRS 244.290.

(D) All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur between the hours of midnight and 6:00 a.m. Monday through Saturday. (KRS 244.480) No delivery shall occur on Sunday.

(Ord. 22-2011, passed 11-21-11) (Am. Ord. 17-2013, passed 09-16-2013)

§ 123A.26 CONDITIONS, PROHIBITIONS AND RESTRICTIONS.

(A) No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(B) It shall be unlawful for any licensee licensed under this section 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 Hardin County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(C) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(D) It shall be unlawful for the licensee under this section who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.

(E) 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.

(F) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(G) The licensee shall display at all times in a prominent place a sign at least 8" x 11" 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.*

(H) The licensee, before commencing any business for which a license has been issued, shall post and display 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.

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.

(I) The licensee shall post in a 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.

A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895.

(J) Any off premises signage advertising the sale of alcoholic beverages is prohibited.

(K) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(L) No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

1. Has been convicted of any felony, misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages, within the last two (2) years;
2. Is under the age of twenty (20) years who will be serving alcoholic beverages.
3. Within two (2) years prior to the date of his employment, has had any City license under this section revoked for cause.

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

(M) All persons who shall be serving alcoholic beverages shall undergo any training required by the state ABC Office, the cost of which shall be the responsibility of the licensee.

(N) Mandatory Responsible Alcoholic Beverage Service Training:

1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City approved responsible beverage service training program. For a responsible beverage service program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxications. The City will require enrollment in the Server Training in Alcohol Regulations (S.T.A.R.) program offered by the Education Branch of the State ABC to provide consistency in the training under specific Kentucky law.

2) All persons required to complete training under paragraph (A) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement or in the first available approved program following employment if no program is available within sixty (60) days. All persons completing the training required by this section shall be re-certified in responsible alcoholic beverage service training from a program approved by the City not less than once every three (3) years thereafter.

3) The owner of any license serving alcoholic beverages shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the name, job description, date of employment and proof of certification of each server regulated by this section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

(Ord. 22-2011, passed 11-21-11)

§ 123A.27 INFORMATION DEEMED CONFIDENTIAL; PENALTY FOR DISCLOSURE; EXCEPTIONS.

Any information, including returns, documents, or payments made pursuant hereto and any other information gained by the City Director of Finance or any other official, agent, or employee of the City of Elizabethtown as a result of any return, investigation, hearing or verification required or authorized by the ordinance shall be confidential; except, in accordance with proper judicial order, and any person or agent divulging such information shall, upon conviction, be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisonment not to exceed Thirty (30) days, or both, at the discretion of the court, and upon conviction shall be dismissed from employment by the City. Provided, however, such person may disclose to the Commissioner of the Revenue Cabinet of the state or his or her duly authorized agent, or the other Commissioner of Internal Revenue Service, or his or her duly authorized agent, all such information and extend the right to inspect any of the books and records of the City to said Commissioner of the Revenue Cabinet of the state and/or to said Commissioner of the Internal Revenue Service who must grant to the City the reciprocal right to obtain information from the files and records of the Internal Revenue Service and maintains the privileged character of the information so furnished to them.

(Ord. 25-2012, passed 11-19-12)

§ 123A.28 ENFORCEMENT.

City police officers and the City ABC Administrator or the officers of that department are authorized to enforce this section for alleged violations.

(Ord. 22-2011, passed 11-21-11)

§ 123A.29 PENALTIES.

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

The City ABC Administrator may assess a fine of not more than one thousand dollars (\$1,000.00) per violation. This payment of said fine shall be transmitted to the City Finance Department to be deposited in the appropriate designated account.

Any person, firm or corporation who violates any of the provisions of this section, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail for not more than six months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(Ord. 22-2011, passed 11-21-11)

~~election day unless it can provide a separate locked department in which all stock of distilled spirits and wine are kept during the hours the polls are open. KRS 244.290.~~

BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or her designate be and she is authorized and directed to take all steps necessary to perfect this Ordinance.

READ THE FIRST TIME, this 3rd day of September, 2013.

READ, ADOPTED & APPROVED, this 16th day of September, 2013.

EDNA B. BERGER, MAYOR

ATTESTED TO:

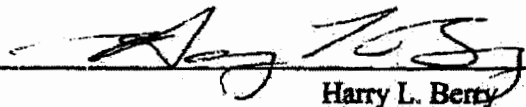
MARY CHAUDOIN, CITY CLERK

EXECUTIVE ORDER 2012-007

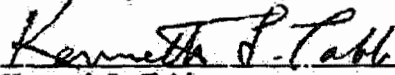
**DIRECTING LOCAL OPTION ELECTION
PURSUANT TO KRS 242.127 FOR THE
CITY OF ELIZABETHTOWN, KENTUCKY
ON JANUARY 8, 2013**

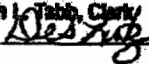
Comes the duly elected County Judge/Executive of Hardin County, Kentucky, Harry L. Berry, and states that a petition calling for a local option election to allow the sale of distilled spirits and wine by the drink for consumption on the premises within the City of Elizabethtown, Kentucky was duly filed in the Hardin County Clerk's Office on October 11, 2012, and with the aid and assistance of the Hardin County Clerk, and having reviewed said petition, the County Judge/Executive has determined that the petition sufficiently complies with KRS 242.127 and related statutes, and in accordance with the terms of said petition and KRS Chapters 242.030, 242.040, and 242.060 to 242.120, it is hereby ordered that the Hardin County Clerk and the Hardin County Board of Elections conduct such local option election in accordance with KRS Chapter 242, and related statutes, within the City of Elizabethtown only, on January 8, 2013 and that the Sheriff of Hardin County advertise this order in accordance with KRS Chapter 242 and that the Sheriff post written or printed handbills of this order at not less than five (5) conspicuous places in the Elizabethtown precincts at least two weeks prior to said election.

This 24th day of October, 2012


Harry L. Berry
Hardin County Judge/Executive

Attested By:


Kenneth L. Tabb
Hardin County Clerk


Commonwealth of Kentucky
County of Hardin
I, Kenneth L. Tabb, Clerk of the County and State
aforesaid, do certify that the foregoing instrument of
writing is a true and correct copy of Executive Order 2012-007
as appears in the records of my office in
Book 7 Page 288
Witness my hand and seal this 24th day of October
2012
Kenneth L. Tabb, Clerk
By  D.C.

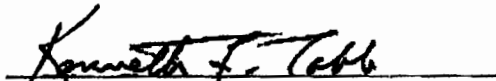
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**EXECUTIVE ORDER NO. 2011-007
DIRECTING LOCAL OPTION ELECTION FOR
CITY OF VINE GROVE ON OCTOBER 4, 2011**

Comes the duly elected County Judge/Executive of Hardin County, Kentucky, Harry L. Berry, and states that a petition calling for a local option election on the sale of alcoholic beverages for the precincts encompassing the corporate limits of the City of Vine Grove was duly filed in Hardin County Clerk's Office on July 28, 2011, and with the aid and assistance of the Hardin County Clerk, and having reviewed said petition, the County Judge/Executive has determined that the petition sufficiently complies with KRS242.020 and related statutes, and in accordance with the terms of said petition and KRS Chapter 242, it is hereby ordered that the Hardin County Clerk and the Hardin County Board of Elections conduct such local option election in accordance with KRS Chapter 242, and related statutes, in the precincts inside the corporate limits of the City of Vine Grove, Kentucky, on October 4, 2011, and the Sheriff of Hardin County advertise this order in accordance with KRS Chapter 424 and that he post written or printed handbills of this order at not less than five (5) conspicuous places in each precinct so affected at least two weeks prior to said election.

This 4th day of August 2011.


Harry L. Berry
Hardin County Judge/Executive


Kenneth L. Tabb
Hardin County Clerk

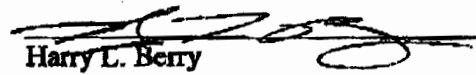
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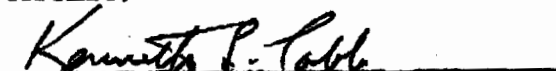
**EXECUTIVE ORDER NO. 2011-006
DIRECTING LOCAL OPTION ELECTION FOR
CITY OF RADCLIFF ON OCTOBER 4, 2011**

Comes the duly elected County Judge/Executive of Hardin County, Kentucky, Harry L. Berry, and states that a petition calling for a local option election on the sale of alcoholic beverages for the precincts encompassing the corporate limits of the City of Radcliff was duly filed in Hardin County Clerk's Office on July 28, 2011, and with the aid and assistance of the Hardin County Clerk, and having reviewed said petition, the County Judge/Executive has determined that the petition sufficiently complies with KRS242.020 and related statutes, and in accordance with the terms of said petition and KRS Chapter 242, it is hereby ordered that the Hardin County Clerk and the Hardin County Board of Elections conduct such local option election in accordance with KRS Chapter 242, and related statutes, in the precincts inside the corporate limits of the City of Radcliff, Kentucky, on October 4, 2011, and the Sheriff of Hardin County advertise this order in accordance with KRS Chapter 424 and that he post written or printed handbills of this order at not less than five (5) conspicuous places in each precinct so affected at least two weeks prior to said election.

This 4th day of August 2011.


Harry L. Berry
Hardin County Judge/Executive

ATTEST:


Kenneth L. Tabb
Hardin County Clerk

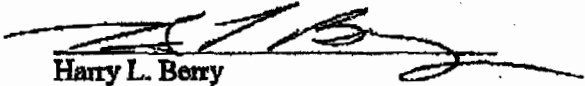
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**EXECUTIVE ORDER NO. 2011-005
DIRECTING LOCAL OPTION ELECTION FOR
CITY OF ELIZABETHTOWN ON OCTOBER 4, 2011**

Comes the duly elected County Judge/Executive of Hardin County, Kentucky, Harry L. Berry, and states that a petition calling for a local option election on the sale of alcoholic beverages for the precincts encompassing the corporate limits of the City of Elizabethtown was duly filed in Hardin County Clerk's Office on July 28, 2011, and with the aid and assistance of the Hardin County Clerk, and having reviewed said petition, the County Judge/Executive has determined that the petition sufficiently complies with KRS242.020 and related statutes, and in accordance with the terms of said petition and KRS Chapter 242, it is hereby ordered that the Hardin County Clerk and the Hardin County Board of Elections conduct such local option election in accordance with KRS Chapter 242, and related statutes, in the precincts inside the corporate limits of the City of Elizabethtown, Kentucky, on October 4, 2011, and the Sheriff of Hardin County advertise this order in accordance with KRS Chapter 424 and that he post written or printed handbills of this order at not less than five (5) conspicuous places in each precinct so affected at least two weeks prior to said election.

This 4th day of August 2011.


Harry L. Berry
Hardin County Judge/Executive

ATTEST:


Kenneth L. Tabb
Hardin County Clerk

Received Time Aug 5 2:04AM

ORDINANCE NO. 22 -- 2011

**A COMPREHENSIVE REGULATORY ORDINANCE FOR
THE SALE AND DISTRIBUTION OF DISTILLED
SPIRITS AND WINE, AND MALT BASED BEVERAGES
WITHIN THE CITY OF ELIZABETHTOWN, KENTUCKY**

WHEREAS, a vote was taken on October 4, 2011 to take the sense of the people as to whether expanded sales of distilled spirits and wine, and malt based beverages should be allowed, and

WHEREAS, the vote was 60% of the majority of voters cast their ballots to allow the expanded sales of distilled spirits and wine, and malt based beverages, and

WHEREAS, the City of Elizabethtown now finds it necessary to regulate the sale and distribution of distilled spirits and wine, and malt based beverages within its corporate boundaries in order to protect the health, safety and welfare of its citizens;

NOW, THEREFORE, BE IT ORDAINED BY the City Council of the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance, the following:

ARTICLE I -- IN GENERAL

Title:

This ordinance shall be known and may be cited as the Alcoholic Beverage Control Ordinance of the City of Elizabethtown – distilled spirits and wine, and malt based beverages.

Definitions:

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

and supplements thereto.

Incorporation of State Law

(A) The provision of KRS Chapters 241, 242, 243 and 244, are hereby adopted as part of this ordinance, except as otherwise lawfully provided herein. As used herein “State” means the Commonwealth of Kentucky, and “City” means Elizabethtown, 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 beverages 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 beverages use in the City.

Scope:

(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 based 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 of Elizabethtown or of any State statutes or regulations.

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

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 Office of the Finance Director and shall become a part of the general funds of the City.

**ARTICLE II -- DUTIES OF THE OFFICE OF THE CITY
ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR**

- (a) The duties of the office of City Alcoholic Beverage Control Administrator (hereinafter referred to as City ABC Administrator) are assigned to the office of the Finance Director.
- (b) The Mayor of the City shall appoint a City ABC Administrator.
- (c) The salary for said office, if any, 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 of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City Council.
- (e) No person shall be a City 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. (KRS 241.170).

(f) The City ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.

(g) Should the City ABC Administrator at any time have reasonable grounds 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 shall have the authority to require such person to appear in person at the Elizabethtown Police Department for the purpose of having his or her fingerprints taken.

(h) The City ABC Administrator for entering upon his or her duties as such, shall take the oath 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 five thousand (\$5,000.00) dollars, and shall swear to faithfully perform the duties of his or her office pursuant to the provisions of Section 62.060 of the Kentucky Revised Statutes et seq.

The cost of any necessary bond required under this section shall be borne by the City of Elizabethtown.

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

ARTICLE III – APPLICATION/LICENSE

(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) The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.

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

(b) All licenses granted under this Ordinance shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board and the City of Elizabethtown, as amended and supplemented from time to time.

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

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Elizabethtown 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;
- (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.

Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City ABC Administrator shall transmit the

same to the City Finance Department for deposit into the appropriate designated account.

(d) 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.

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

- (1) The name and address of the licensee
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, 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;
- (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.

(f) All licenses approved by the City ABC Administrator and issued by the City of Elizabethtown shall begin on February 1 of any year and shall expire on January 31.

(g) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

(h) Any licenses issued after August 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.

(i) In addition, any other penalties allowed by this Ordinance or any other statutory provision, a violation of this section shall authorize and require the revocation of the license and the City shall not be required to refund any portion of the license fee.

ARTICLE IV – FEES/LICENSE

Number of Distilled Spirits and Wine Licenses

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

The number of such licenses authorized by the State Alcohol Beverage Control Board is twelve (12).

Distilled Spirits and Wine; Fees

The City shall have the power and authority to issue the following kinds of distilled spirits licenses upon proper application and the payment of prescribed fee.

	License Type	Fee
(A)	Distilled spirits and wine retail package license, per annum	\$1,000.00
(B)	Special temporary wine license, per event	\$50.00

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact the the ABC Board Administrator has approved the applicant's state application.

Temporary licenses will only be issued in conjunction with organized charitable, civic or community sponsored events, i.e. fairs and festivals. Holidays such as Christmas, Easter and Lent are not considered events. Therefore, temporary licenses will not be issued for holiday seasons.

Applicants must obtain temporary licenses for each qualifying event being conducted during a holiday season.

Malt Base Beverage License; Fees

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

License Type	Fee
(A) Retailer’s licenses, per annum	\$200.00
(B) Temporary beer by the drink, per event	\$50.00

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant’s state application.

Temporary licenses will only be issued in conjunction with organized charitable, civic or community sponsored events, i.e. fairs and festivals. Holidays such as Christmas, Easter and Lent are not considered events. Therefore, temporary licenses will not be issued for holiday seasons. Applicants must obtain temporary licenses for each qualifying event being conducted during a holiday season.

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

(C) 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.

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board Administrator of the finality of appeal or protest permitted upon such license pursuant to the provisions of KRS 243.360, and the fact that the ABC Board Administrator has approved the applicant's state application.

Refund of License fees:

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

Lost or Destroyed Licenses:

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator

after he shall be satisfied as to the facts, provided, however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) Dollars for issuing said duplicate.

Temporary Closing:

In the course of any one day of operation of a licensed premise, should multiple violations of the ordinance or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the City Police Department, such one day multiple occurrences shall be reported to the City ABC Administrator by the Chief of Police. The City ABC Administrator shall, in the interest of public health, safety, morals and welfare, direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City ABC Administrator, such review shall occur on the next business day.

Revocation or Suspension:

(a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 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 Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, or referred to, irrespective of whether the licensee knew of or

permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his sound discretion deems sufficient.

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

(c) Any license must be revoked or suspended for the following causes:

(1) Conviction of the licensee or his 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 (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) 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 (1) such felony and one (1) 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 Ordinance 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.

(5) Revocation of any license granted under any act of Congress relative to the regulation of manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.

(6) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting sports bets; 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.

Notice to Licensee; Surrender of License; Hearing:

(a) Within three (3) 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. The licensee shall at once surrender his license to the City ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the City ABC Administrator shall immediately cause one of his officers to take physical possession of the license and return it to the City ABC Administrator.

(b) When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his stock of alcoholic beverages to an appropriate entity.

(c) Appeal from the decision of the City ABC Administrator shall be to the ABC Board.

(d) If a license is revoked or suspended by an order of the City ABC Administrator, the licensee shall at once suspend all operations authorized under his license.

Transfer or Assignment:

No license issued under this Ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of One Hundred Dollars (\$100.00) shall be made to the City ABC Administrator.

Refusal of License:

A City license shall be refused:

(a) For any cause that the State shall refuse 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 committed any act for which a revocation of license would be authorized; or

- (c) If the applicant has made any false material statement in his application.
- (d) If the applicant is seeking a license for the sale and distribution of distilled spirits, wine and/or malt based beverages in a sexually oriented business.
- (e) For any reason that the City ABC Administrator which he, in the exercise of his sound discretion may deem sufficient.

Review of License

Applicants to whom a license is issued authorizing the sale of alcoholic beverages pursuant to this ordinance shall provide periodic information demonstrating compliance. This document shall be provided on a schedule to be coordinated with the applicant's regulatory fee filings. This information shall consist of a certificate from a Certified Public Accountant, owner or other designate familiar with the applicant's pertinent business records. This certificate shall state:

I declare, under the penalties of perjury, that this return has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.

Regulatory License Fee:

(a) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. Said license fee shall be five (5%) percent of gross sales of alcoholic beverages as set by the City Council. The City Council hereby determines that said percentage rate is 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. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed and such regulatory fee shall be applied annually from January 1 to December 31.

5%

(b) For Distilled Spirits and Wine license, payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall accompany the tax returns approved for such use by the City Council. These returns and payments are due monthly by the 20th day of the following month at which time one-twelfth (1/12) of the annual fees shall be deducted as a credit.

(c) For Malt Base Beverage or Restaurant Wine license, payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall accompany the tax returns approved for such use by the City Council. These returns and payments are due no later than by the end of the month immediately following each calendar quarter at which time one-fourth (1/4) of the annual fees shall be deducted as a credit.

(d) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension revocation.

(e) Penalty for failure to file a return and pay quarterly remittance by the due date is five percent (5%) of the tax for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, in no case shall the penalty be less than Ten Dollars (\$10.00).

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

Change of Information:

(a) Since a number of licenses issued by the City are 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 ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.

(c) 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 Kentucky. If Elizabethtown 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;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

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

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 ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.

(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 City ABC Administrator.

(c) Except that the provisions of subsection (a) hereof 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, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, 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 the ninety (90) days of inactivity, for any of the reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy 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 twelve (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 sound discretion.

(d) All renewal licenses must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be 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 twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing 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.

Approval of Premises:

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

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 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. 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.

Books, Records and Reports:

(a) Every licensee under this Ordinance shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable 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 review.

(b) For the purpose of assisting the City ABC Administrator in enforcement of this Ordinance, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the City ABC Administrator.

ARTICLE V -- HOURS FOR SALE AND DELIVERY; RESTRICTIONS

Hours

(a) Upon the licensee being granted a license for the retail or wholesale sales of distilled spirits, wine and malt beverages or the sale of malt based beverages by the drink on its premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.

Sunday

(b) The licensee may sell or dispense distilled spirits, malt beverages and wine on Sunday between the hours of 1:00 p.m. and 12:00 a.m.

(c) The licensee shall provide a separate locked department in which all stocks of distilled spirits and wine are kept during these hours when sales are prohibited. KRS 244.290.

(d) All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur between the hours of midnight and 6:00 a.m. Monday through Saturday. (KRS 244.480) No delivery shall occur on Sunday.

The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular or primary election day.

The licensee shall remain closed during the hours the polls are open on any regular or primary election day unless it can provide a separate locked department in which all stock of distilled spirits

and wine are kept during the hours the polls are open. KRS 244.290.

ARTICLE VI -- CONDITIONS, PROHIBITIONS AND RESTRICTIONS

Conditions, Prohibitions and Restrictions:

(a) No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(b) It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Hardin County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(c) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(d) It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.

(e) 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.

(f) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(g) The licensee shall display at all times in a prominent place a sign at least 8" x 11" 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.*

(h) The licensee, before commencing any business for which a license has been issued, shall post and display 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.

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.

(i) The licensee shall post in a 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.

A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895.

(j) Any off premises signage advertising the sale of alcoholic beverages is prohibited.

(k) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any

consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(l) No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

1. Has been convicted of any felony, misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages, within the last two (2) years;
2. Is under the age of twenty (20) years who will be serving alcoholic beverages.
3. Within two (2) years prior to the date of his employment, has had any City license under this Ordinance revoked for cause.

Violation of this subsection shall subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license.

(m) All persons who shall be serving alcoholic beverages shall undergo any training required by the state ABC Office, the cost of which shall be the responsibility of the licensee.

(n) Mandatory Responsible Alcoholic Beverage Service Training:

- 1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City approved responsible beverage service training program. For a responsible beverage service program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxications. The City will require enrollment in the Server Training in Alcohol Regulations (S.T.A.R.) program offered by the Education Branch of the State ABC to provide consistency in the training under specific Kentucky law.

Mandatory Training

2) All persons required to complete training under paragraph (A) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement or in the first available approved program following employment if no program is available within sixty (60) days. All persons completing the training required by this section shall be re-certified in responsible alcoholic beverage service training from a program approved by the City not less than once every three (3) years thereafter.

3) The owner of any license serving alcoholic beverages shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the name, job description, date of employment and proof of certification of each server regulated by this section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

ARTICLE VII -- ENFORCEMENT

Enforcement:

City police officers and the City ABC Administrator or the officers of that department are authorized to enforce this Ordinance for alleged violations.

Penalties:

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

The City ABC Administrator may assess a fine of not more than one thousand dollars (\$1,000.00) per violation. This payment of said fine shall be transmitted to the City Finance

Department to be deposited in the appropriate designated account.

Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided, shall, for the first offense, be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail for not more than six months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

ARTICLE VIII -- SEVERABILITY

If any portion of this Ordinance is declared null and void, the remaining provisions will remain in full force and effect.

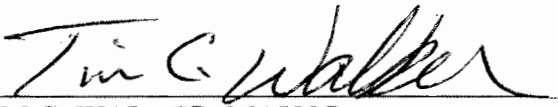
ARTICLE IX -- EFFECTIVE DATE

Prohibition is lifted for the limited purposes described hereinabove effective December 3, 2011.


BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or his designatee, be and he is hereby authorized and directed to take all steps necessary to perfect this Ordinance.

READ THE FIRST TIME, this 7th day of November, 2011.

READ, ADOPTED AND APPROVED, this 21st day of November, 2011.


TIM C. WALKER, MAYOR

ATTESTED TO:


MARY CHAUDOIN, CITY CLERK

ORDINANCE NO. 05 – 2008

**AN ORDINANCE OF THE CITY OF ELIZABETHTOWN, KENTUCKY
AMENDING ORDINANCE NO. 17-2001 AND ORDINANCE NO. 12-2002
RELATING TO MANDATORY RESPONSIBLE ALCOHOLIC
BEVERAGE SERVICE TRAINING**

BE IT ORDAINED by the City Council of the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance that Ordinance No. 17-2001 and Ordinance No. 12-2002 be amended as follows:

Ordinance No. 17-2001, Article IV – CONDITIONS, PROHIBITIONS & RESTRICTIONS

M) Mandatory Responsible Alcoholic Beverage Service Training:

1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City approved responsible beverage service training program. For a responsible beverage service program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxications. The City will require enrollment in the Server Training in Alcohol Regulations (S.T.A.R.) program offered by the Education Branch of the State ABC to provide consistency in the training under specific Kentucky law.

2) All persons required to complete training under paragraph (A) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement or in the first available approved program following employment if no program is available within sixty (60) days. All persons completing the training required by this section shall be re-certified in responsible alcoholic beverage service training from a program approved by the City not less than once every three (3) years thereafter.

3) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the name, job description, date of employment and proof of certification of each server regulated by this section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

Ordinance No. 12-2002, Article IV – CONDITIONS, PROHIBITIONS & RESTRICTIONS

O) Mandatory Responsible Alcoholic Beverage Service Training:

1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City approved responsible beverage service training program. For a responsible beverage service program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxications. The City will require enrollment in the

Server Training in Alcohol Regulations (S.T.A.R.) program offered by the Education Branch of the State ABC to provide consistency in the training under specific Kentucky law.

2) All persons required to complete training under paragraph (A) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement or in the first available approved program following employment if no program is available within sixty (60) days. All persons completing the training required by this section shall be re-certified in responsible alcoholic beverage service training from a program approved by the City not less than once every three (3) years thereafter.

3) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the name, job description, date of employment and proof of certification of each server regulated by this section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

EFFECTIVE DATE: This ordinance shall become effective on July 1, 2008.

BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or his designate be and he is authorized and directed to take all steps necessary to perfect this Ordinance.

READ THE FIRST TIME, this 5th day of May, 2008.

READ, ADOPTED & APPROVED, this 19th day of May, 2008.

DAVID WILLMOTH, JR., MAYOR

ATTESTED TO:

MARY CHAUDOIN, CITY CLERK

ORDINANCE NO. 05 – 2008

**AN ORDINANCE OF THE CITY OF ELIZABETHTOWN, KENTUCKY
AMENDING ORDINANCE NO. 17-2001 AND ORDINANCE NO. 12-2002
RELATING TO MANDATORY RESPONSIBLE ALCOHOLIC
BEVERAGE SERVICE TRAINING**

BE IT ORDAINED by the City Council of the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance that Ordinance No. 17-2001 and Ordinance No. 12-2002 be amended as follows:

Ordinance No. 17-2001, Article IV – CONDITIONS, PROHIBITIONS & RESTRICTIONS

M) Mandatory Responsible Alcoholic Beverage Service Training:

1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City approved responsible beverage service training program. For a responsible beverage service program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxications. The City will require enrollment in the Server Training in Alcohol Regulations (S.T.A.R.) program offered by the Education Branch of the State ABC to provide consistency in the training under specific Kentucky law.

2) All persons required to complete training under paragraph (A) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement or in the first available approved program following employment if no program is available within sixty (60) days. All persons completing the training required by this section shall be re-certified in responsible alcoholic beverage service training from a program approved by the City not less than once every three (3) years thereafter.

3) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the name, job description, date of employment and proof of certification of each server regulated by this section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

Ordinance No. 12-2002, Article IV – CONDITIONS, PROHIBITIONS & RESTRICTIONS

O) Mandatory Responsible Alcoholic Beverage Service Training:

1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City approved responsible beverage service training program. For a responsible beverage service program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxications. The City will require enrollment in the

Server Training in Alcohol Regulations (S.T.A.R.) program offered by the Education Branch of the State ABC to provide consistency in the training under specific Kentucky law.

2) All persons required to complete training under paragraph (A) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement or in the first available approved program following employment if no program is available within sixty (60) days. All persons completing the training required by this section shall be re-certified in responsible alcoholic beverage service training from a program approved by the City not less than once every three (3) years thereafter.

3) The manager of the restaurant shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the name, job description, date of employment and proof of certification of each server regulated by this section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

EFFECTIVE DATE: This ordinance shall become effective on July 1, 2008.

BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or his designate be and he is authorized and directed to take all steps necessary to perfect this Ordinance.

READ THE FIRST TIME, this 5th day of May, 2008.

READ, ADOPTED & APPROVED, this 19th day of May, 2008.

DAVID WILLMOTH, JR., MAYOR

ATTESTED TO:

MARY CHAUDOIN, CITY CLERK

ORDINANCE NO. 22 - 2007

AN ORDINANCE OF THE CITY OF ELIZABETHTOWN, KENTUCKY
ESTABLISHING A RESTAURANT TAX AND PROVIDING
ASSESSMENT AND COLLECTION IN ACCORDANCE
WITH THE PROVISIONS OF KRS 91A.400

WHEREAS, the City Council of the City of Elizabethtown has experienced the need for continued funding for the promotion of tourist activity within the City of Elizabethtown; and,

WHEREAS, the City of Elizabethtown has previously created by ordinance number 04-1993, Code of Ordinance, Chapter 117.01 – 117.13 a Tourism Commission for the promotion of these activities within the City of Elizabethtown, known as the “The Elizabethtown Tourism & Convention Bureau; and,

WHEREAS, KRS 91A.400 authorizes the imposing of a 2 percent (2%) tax on the gross retail sales of restaurants doing business within the City of Elizabethtown, a fourth class city, for funding of authorized activities of the tourism commission as authorized and permitted by KRS 91A.350 thru 91A.400; and,

WHEREAS, the Elizabethtown Tourism and Convention Bureau has expressed a commitment to expend the funds only within the parameters of and in accordance with KRS 91A.400; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETHTOWN, HARDIN COUNTY, KENTUCKY AS FOLLOWS:

Section one (1): Definitions.

- A. Restaurant: As used in this chapter, restaurant means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants, coffee shops, cafeterias, short order cafes, luncheonettes, grilles, tea rooms, sandwich shops, soda fountains, roadside stands, street vendor, catering kitchens, delicatessen, or similar places in which food is prepared for sale for consumption on the premises or elsewhere. It does not include school cafeterias which are operated by the school system and not an independent corporation, food vending machines, establishments serving beverages only in single service or original containers. Temporary food stand, operated by non-profit organizations are exempt from this tax. Hospital cafeterias owned by a governmental entity and not an independent corporation are exempt from this tax. Cafeterias that are located inside industrial factories in which services are limited to employees only are exempt from this tax.
- B. Commission: The Elizabethtown Tourism & Convention Bureau.

Section Two (2): On and after July 1, 2007, there is hereby levied upon the retail sale of all food and beverages by a restaurant located within the municipal limits of the City of Elizabethtown a tax equal to two percent (2%) of the gross amount of each sale (excluding any other tax). This tax may or may not be passed on to the ultimate customer/consumer at the discretion of the restaurant.

Section Three (3): Reporting Procedures to City Council.

- A. The funds collected from this tax shall be maintained by the City Director of Finance in a special fund and disbursed to the Commission monthly. All such money shall be used solely for the purpose of promoting recreational, convention and tourist activity in the City of Elizabethtown, as set out in KRS Section 91A.390, and shall not be used to provide a subsidy in any form to any motel, hotel or restaurant.
- B. The Commission must obtain approval from the City Council of the City of Elizabethtown prior to using any revenues from the restaurant tax for the purposed of capital improvements including the purchase or acquisition of land. In the event that an approved capital project must be debt serviced by bonds or bonded by either the City of Elizabethtown or the city's Elizabethtown Public Properties Holding Company LLC, the Commission will allow the funds from the restaurant tax to be paid directly from the City of Elizabethtown's collection account to cover the approved payment amount.
- C. The Commission is strongly encouraged to obtain approval from the City Council of Elizabethtown for any projects that are estimated at a cost of \$10,000 or more. In obtaining the approval, the Commission must provide the City Council a complete copy of any and all plans, data, research, appraisals, blueprints, etc. regarding the project.
- D. The Commission will continue to tender its annual budget to the City Council for approval as required by KRS 91A.390.
- E. The Commission shall provide a monthly written report to the City Council which includes all income, expenditures, disbursements, and requests pertaining to restaurant tax funds.

Section Four (4): On or before the twentieth (20th) day of each calendar month, each restaurant owner and/or operator shall report to the City Director of Finance on forms provided by the City of Elizabethtown the gross amount of sales of the restaurant from food and beverages for the preceding calendar month, and a calculation of the tax due for that month by computing two percent (2%) of its gross sales from food and beverages. The owner/operator of the restaurant shall remit with the form the tax due to the City Director of Finance.

Section Five (5): On or before the first (1st) day of each calendar month, the City Director of Finance shall transfer to the Elizabethtown Tourism and Convention Bureau the net of monies collected from the restaurant tax collected for the previous month. The City of Elizabethtown shall retain five percent (5%) of the tax collected as reimbursement for the costs of collections, including but not limited to the cost of reporting forms, postage, court cost, attorney's fees and all other expenses incurred in collection of this tax.

Section Six (6): Collection and Enforcement.

- A. It shall be the duty of the City Director of Finance to collect and receive the restaurant tax imposed by this Ordinance.
- B. The City Director of Finance shall keep records showing the amount paid by each restaurant owner and / or operator and the date of such receipt.
- C. The City Director of Finance is hereby charged with the enforcement of provisions of this Ordinance, and is hereby empowered to prescribe, adopt and promulgate, and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the provisions of the ordinance, including but not limited to provisions of the reexamination and correction of returns to which and underpayment or overpayment is claimed or found to have been made, and the rules and regulations as promulgated by him shall be binding upon the taxpayer. Provided, however, all such rules, regulations and decisions shall be subject to the consent and approval of the Mayor and City Council.
- D. The City Director of Finance, or any agent or employee designated by him or her in writing, may examine the books, papers, and records of any restaurant in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of restaurant tax imposed by the terms of this ordinance as he or she may deem is reasonably necessary for the purpose incident to the performance of his or her duties hereunder. The City Director of Finance may enforce this right by application to the appropriate court having jurisdiction over these matters.
- E. The City Director of Finance may dispense with examination of the books, papers, and records of any taxpayer in any case where the City Director of Finance is furnished with a certificate of a qualified Certified Public Accountant, or the sworn statement of any other reputable accountant or bookkeeper stating that the amount of restaurant tax reported conforms to the State or Federal Income Tax Return filed for the applicable period.
- F. A restaurant owner and/or operator who collects the restaurant tax from one (1) or more persons and who fails to file a return and make payments therewith shall in addition to the penalties prescribed herein upon conviction

be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), or imprisonment for not more than thirty (30) days, or both such fine and imprisonment, for each offense. Such criminal penalties shall be in addition to the penalties imposed within this Ordinance.

Section Seven (7): Interest and Penalties.

- A. Any person who fails to file any return required within the afore stated time due or who fails to pay such restaurant tax when same shall become due, shall be charged a penalty of Five Percent (5%) of the amount of the unpaid restaurant tax for each month such return remains un-filed or tax unpaid, not exceeding a penalty of Twenty Five Percent (25%) in the aggregate.
- B. All restaurant taxes imposed by this Ordinance which remain unpaid after they become due shall bear interest at the rate of one-half of one percent (.5%) per month (or part thereof).
- C. Any person who shall fail, neglect or refuse to make any return or pay any tax due required by this Ordinance, or to pay the city those so withheld under the terms of this Ordinance, or any person who shall refuse to permit the City Director of Finance or any agent or employee designated by him in writing, to examine books, records, and papers pertaining to information required under this Ordinance, or who shall knowingly make any incomplete, false, or fraudulent return, or who shall attempt to do anything whatsoever to avoid the full disclosure of the amount of gross receipts in order to avoid the payment of the whole or any part of the restaurant license tax, shall become liable to the city for such tax as well as the interest and penalty thereon, and shall in addition, be subject to a fine of not less than FIFTY DOLLARS (\$50.00) or more than FIVE HUNDRED DOLLARS (\$500.00) or imprisonment for not less than thirty (30) days, each day of non filing constituting a separate offense. Such criminal penalties shall be in addition to the penalties imposed above.

Section Eight (8): Information Deemed Confidential: Penalty for Disclosure: Exceptions.

Any information, including returns, documents, or payments made pursuant hereto and any other information gained by the City Director of Finance or any other official, agent, or employee of the City of Elizabethtown as a result of any return, investigation, hearing or verification required or authorized by the ordinance shall be confidential; except, in accordance with proper judicial order, and any person or agent divulging such information shall, upon conviction, be subjected to a fine of net less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisonment not to exceed Thirty (30) days, or both, at the discretion of the court, and upon conviction shall be dismissed from employment by the City. Provided, however, such

person may disclose to the Commissioner of the Revenue Cabinet of the state or his or her duly authorized agent, or the other Commissioner of Internal Revenue Service, or his or her duly authorized agent, all such information and extend the right to inspect any of the books and records of the City to said Commissioner of the Revenue Cabinet of the state and/or to said Commissioner of the Internal Revenue Service who must grant to the City the reciprocal right to obtain information from the files and records of the Internal Revenue Service and maintains the privileged character of the information so furnished to them.

Section Nine (9): The City Director of Finance, or any agent or employee designated by him or her in writing, shall have the following duties in connection with the restaurant tax.

- A. Keep accurate records of all returns and of all sums received for restaurant taxes. Such records shall contain the names and addresses of each taxpayer, and the dates and amounts of payments. He or she shall keep the original returns on file for a period of not less than three (3) years after filing.
- B. Enforce the provisions of this Ordinance, all in accordance with any policies set forth in any ordinance, municipal order, or executive order.
- C. Prepare forms and instructions for the returns and payments required by this Ordinance. All instructions shall be clear and shall be as short as possible.
- D. Examine returns. And for any returns appearing to be incorrect, make inquiries, investigations, and adjustments in the amount of tax due.
- E. Where necessary to determine accurate figures for determining the amount of tax due, examine books, records, and information stored in computers of any taxpayer, provided that each city officer or employee acting under this ordinance shall identify himself or herself and request the information desired. If the officer or employee is refused admission to any place of business or refused access to any records or computer memory, the City Director of Finance or employee shall leave the premises and shall seek an appropriate court order, with the assistance of the city attorney, to obtain access to the information needed.
- F. The City Director of Finance shall approve the form of all returns and written instructions prior to use by an agent or employee designated by him or her in writing.
- G. The City Director of Finance may prepare pamphlets for distribution to the public, clearly explaining the restaurant tax, returns, and payments required.

Section Ten (10): Procedures for Applying for Refund of Overpayment.

- A. Any taxpayer (pursuant to this Ordinance) who truly believes that he has made or permitted an overpayment of his or her liability for any restaurant tax required by this Ordinance may apply for refund of said overpayment provided that he or she files an amended return, verified under oath and setting forth in detail the full explanation of the reason of the said claimed overpayment of his or her liability, within one (1) year of the date of said overpayment is made or the date he or she said restaurant tax payment was due, whichever occurs first.
- B. If a refund has been properly claimed according to the provisions of paragraph A above, then the City Director of Finance shall have the authority to honor and refund any such overpayment actually made above actual liability upon the restaurant tax required under the Ordinance which he or she determines within his or her sole discretion was made through honest mistake or inadvertence.
- C. In no event shall any refund be made for any payment upon any restaurant tax unless the refund claim is submitted and filed in strict compliance with the foregoing provisions of this section upon such refund claim forms or amended return forms as hereafter shall be promulgated by the City Director of Finance from time to time.

Section Eleven (11): Failure to File Return, Failure to Pay the Restaurant Tax Withheld, Underpayment of amount due.

- A. If the taxpayer liable for collecting the restaurant tax and filing a return fails to make a return, the City Director of Finance shall prepare an estimate of the amount of restaurant taxes due based on the best information available to them. The City Director of Finance may make investigations to assist in making the estimate. He or she may consider the volume of business done in the same type of business, and any other relevant matters. When the City Director of Finance estimates the restaurant taxes, the amount of interest and late charges provided by this ordinance shall be added to the taxes due. He or she shall notify the taxpayer of the amount due. Such notification shall be in writing and shall contain a brief description of the method and estimated figures used in arriving at the estimated tax. Any taxpayer may dispute the amount of the estimated tax by filing within thirty (30) days of notification of the estimated taxes a return accompanied by payment of the entire balance due together with the interest and late charges due. Such return shall be processed like any late return, and shall establish the restaurant tax liability of the taxpayer in place of the estimated amount prepared by the City Director of Finance. However, the City Director of Finance may later determine that the amount shown in the return is insufficient so there is a deficiency, in the same manner as in the case of other returns.

- B. If the City Director of Finance determines, by examining available evidence, that the amount of restaurant taxes paid over by the taxpayer is less than the amount required by this Ordinance, he or she shall notify the taxpayer of the deficiency. The City Director of Finance may use any of the methods authorized in paragraph A of the section to determine whether a deficiency exists and to determine the amount of such deficiency. He or she shall thereupon notify the taxpayer of the deficiency. Such notice shall be in writing and shall state not only the amount of the deficiency but also the methods and estimates used in arriving at the amount of the deficiency. If the taxpayer does not object in writing within thirty (30) days of the date of receiving such notice, the taxpayer shall be deemed to have accepted the revised figures for the restaurant tax liability. If the taxpayer does file written objection within the time specified, the taxpayer shall pay the fees, together with penalties and interest, under protest and may thereupon pursue administrative and judicial remedies as provided by this Ordinance and by state law to seek a refund.
- C. If the City Director of Finance finds that any taxpayer has overpaid, he or she shall notify them of overpayment and shall refund the amount of the overpayment to them.
- D. When the City Director of Finance notifies any taxpayer of any estimated amount due, alleged overpayment, or refund, he or she shall include in the notice clear instructions on how, when, and where the taxpayer may protest or appeal the decision.
- E. If any taxpayer or any person, firm, association, or corporation required by this ordinance to pay a restaurant tax or to file a return shall fail to file any return for any month, such failure to file shall constitute a continuing offense against the city and the City Director of Finance may proceed to estimate and collect the restaurant taxes at any time. In all other cases, no increases shall be made in the taxpayer's restaurant tax liability unless the first notice of such increase is received by the taxpayer within three (3) years of the time the return was first due.

Section Twelve (12): Severability

The provisions of this Ordinance are severable. If any sentence, clause, section, or part of this Ordinance or the application thereof to any particular case is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance, it being the legislative intent of the City Council of Elizabethtown to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently of each other.

Section Thirteen (13): Other Ordinances Not Repealed.

Nothing contained herein shall be deemed to repeal or modify any other ordinances heretofore enacted and in force in the City of Elizabethtown unless specifically repealed by separate ordinance.

BE IT ORDAINED BY the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance that the City hereby establishes a restaurant tax and providing assessment and collection in accordance with the provisions of KRS 91A.400.

READ THE FIRST TIME, this 16th day of April, 2007.

READ ADOPTED AND APPROVED, this 23rd day of April, 2007.

DAVID WILLMOTH, JR., MAYOR

ATTESTED TO:

MARY CHAUDION, CITY CLERK

BOOK 0006 PAGE 387

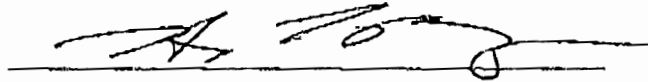
EXECUTIVE ORDER 2004-005
DIRECTION LOCAL OPTION ELECTION FOR
PINE VALLEY PRECINCT/PINE VALLEY GOLF COURSE
ON JANUARY 11, 2005

Comes the duly elected County Judge/Executive of Hardin County, Kentucky, Harry L. Berry, and states that a petition calling for a local option election to revoke the limited sale of alcoholic beverages at Pine Valley Golf Course in Pine Valley Precinct was duly filed in the Hardin County Clerk's Office on October 28, 2004, and with the aid and assistance of the Hardin County Clerk, and having reviewed said petition, the County Judge/Executive has determined that the petition sufficiently complies with KRS 242.123 and related statues, and in accordance with the terms of said petition and KRS Chapter 242.030 (1), (2), and (5), 242.040, and 242.060 to 242.120, it is hereby ordered that the Hardin County Clerk and the Hardin County Board of Elections conduct such local option election in accordance with KRS Chapter 242, and related statues, in the Pine Valley precinct only, on January 11, 2005, and that the Sheriff of Hardin County advertise this order in accordance with KRS Chapter 242 and that the Sheriff post written or printed handbills of this order at not less than five (5) conspicuous places in the Pine Valley precinct at least two weeks prior to said election.

This 1st day of November 2004.

Attested By:

Kenneth L. Tabb
Kenneth L. Tabb
Hardin County Clerk



Harry L. Berry
Hardin County Judge/Executive

Commonwealth of Kentucky
County of Hardin

I, Kenneth L. Tabb, Clerk of the County and State, aforesaid, so certify that the foregoing instrument of writing is a true and correct copy of Executive Order as appears in the records of my office in

Executive Order Book 6, Page 387
Witness my hand and seal this 1st day of November 2004

Kenneth L. Tabb, Clerk
By Sharon Bush D.C.

CLERK
2004 NOV - 11 P 2:48
HARDIN COUNTY CLERK
D.C.

ORDINANCE NO. 10-2003

**AN ORDINANCE FOR THE CITY OF ELIZABETHTOWN, KENTUCKY
AMENDING THE ELIZABETHTOWN CODE OF ORDINANCES
CONCERNING ORDINANCE NO 17-2001, SECTION 122
ALCOHOLIC BEVERAGE CONTROL - PINE VALLEY GOLF COURSE**

BE IT ORDAINED BY the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance that the Elizabethtown Code of Ordinances concerning the following sections of Ordinance No. 17-2001, Section 122 Alcoholic Beverage Control - Pine Valley Golf Course is amended as follows:

Section 122.06 Application/License:

(f) All licenses approved by the City ABC Administrator and issued by the City of Elizabethtown shall begin on January of any year and shall expire December 31 of that same year.

(h) Any licenses issued after January 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 licenses shall not be less than that for a period of six months.

Section 122.15 Regulatory License Fee:

A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. Said license fee shall be five (5%) percent of gross sales of alcoholic beverages as set by the City Council. The City Council shall adopt at the beginning of each budget period for each fiscal year such percentage rates 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. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in the amount equal to the license or fee imposed and such regulatory fee shall be applied annually from January 1 to December 31.

Section 122.21 Hours for Sale and Delivery; Restrictions:

(a) Upon the license being granted a license for retail sales of distilled spirits, wine and malt beverages by the drink for consumption on its premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.

(b) The licensee may sell or dispense distilled spirits, wine and malt beverages by the drink for consumption on its premises on Sunday between the hours of 1:00 p.m. and 12:00 a.m.

ALL OTHER PROVISIONS CONTAINED IN ORDINANCE 17-2001, SECTION 122

SHALL REMAIN IN FULL FORCE AND EFFECT.

BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or his designate, be and he is hereby authorized and directed to take all steps necessary to perfect this Ordinance.

READ THE FIRST TIME, this 21st day of April, 2003.

READ, ADOPTED AND APPROVED, this 5th day of May, 2003.

DAVID WILLMOTH, JR., MAYOR

ATTESTED TO:

MARY CHAUDOIN, CITY CLERK

ORDINANCE NO. 14 -- 2002

**ORDINANCE OF THE CITY OF ELIZABETHTOWN,
KENTUCKY, AMENDING SECTION 114.06 OF THE CODE OF ORDINANCE**

BE IT ORDAINED BY the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance, the following:

BE IT ORDERED that the City of Elizabethtown, Kentucky, hereby amends Section #114.06 entitled "Consumption or Possession of Alcoholic Beverages" to read as follows:

With the exception of a restaurant that possesses a valid A.B.C. license under Ordinance No. 17-2001 or Ordinance No. 12-2002, it shall be unlawful for any person on the premises of a commercial business establishment to drink any intoxicating beverages, either in or out of a motor vehicle, or to possess any open bottle or other receptacle containing any alcoholic beverage.

BE IT FURTHER ORDERED that the Mayor of the City of Elizabethtown, Kentucky and/or his designatee is authorized and directed to take all steps necessary to perfect this Order.

READ THE FIRST TIME, this 15th day of July, 2002.

READ, ADOPTED AND APPROVED, this 5th day of August, 2002.

DAVID WILLMOTH, JR., MAYOR

ATTEST TO:

MARY CHAUDOIN, CITY CLERK

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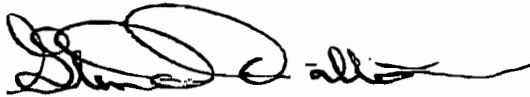
**EXECUTIVE ORDER ENTERING CERTIFICATION
OF RESULT OF LOCAL OPTION ELECTION**

WHEREAS, Kenneth L. Tabb, Hardin County Clerk has presented to the undersigned Hardin County Judge/Executive the certificate of the result of the Wet/Dry Local Option Election Restaurant Provision in the City of Elizabethtown held on May 28, 2002.

WHEREAS, KRS 242.110 directed that the County Judge/Executive enter same on the order books.

NOW, THEREFORE, IT IS HEREBY ORDERED that said Certification, which is attached hereto, and this order be entered in the County Judge/Executive Order Book.

This 4th day of June 2002.



HARDIN COUNTY JUDGE/EXECUTIVE
GLEN D. DALTON

ORDINANCE 27 -- 2002

**AN ORDINANCE FOR THE CITY OF ELIZABETHTOWN, KENTUCKY
AMENDING SECTION 123.15 OF THE ELIZABETHTOWN ALCOHOLIC
BEVERAGE CONTROL ORDINANCE, RESTAURANTS & DINING FACILITIES**

BE IT ORDAINED BY the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance that Section 123.15 of the Elizabethtown Alcoholic Beverage Control Ordinance, Restaurants & Dining Facilities is amended to read as follows:

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this section shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) 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 quarterly regulatory fee filings.

This information shall consist of a certificate from a Certified Public Accountant familiar with the applicant's pertinent business records. This certificate shall state:

~~"I have conducted a limited scope audit according to accepted accounting principles of the pertinent records of _____, Licensee under Ordinance No. 12-2002, and certify that the licensee earned at least seventy (70%) percent of its gross receipts from the sale of food during the quarter ending _____. The Licensee derived _____% of its gross sales from food and _____% of its gross receipts from alcohol."~~

"I declare, under the penalties of perjury, that this return has been examined by me and to the best of my knowledge and belief is a true, correct and complete return. I further certify that the Licensee earned at least seventy (70%) percent of its gross receipts from the sale of food during this reporting period."

~~This certificate shall include a brief description of the methodology utilized in the determination of the certified percentage.~~

BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or his designatee, be and he is hereby authorized and directed to take all steps necessary to perfect this Ordinance.

IT IS FURTHER DECLARED that the passage of this Ordinance and the finalization of the

same is an emergency because the quarterly forms must be submitted to the Alcoholic Beverage Control Administrator before December 31, 2002. Therefore, it is found that an emergency does exist and the requirements of a second reading be, and they are suspended.

READ, ADOPTED & APPROVED, this 16th day of December, 2002.

DAVID WILLMOTH, JR., MAYOR

ATTESTED TO:

MARY CHAUDOIN, CITY CLERK

ORDINANCE NO. 14 -- 2002

**ORDINANCE OF THE CITY OF ELIZABETHTOWN,
KENTUCKY, AMENDING SECTION 114.06 OF THE CODE OF ORDINANCE**

BE IT ORDAINED BY the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance, the following:

BE IT ORDERED that the City of Elizabethtown, Kentucky, hereby amends Section #114.06 entitled "Consumption or Possession of Alcoholic Beverages" to read as follows:

With the exception of a restaurant that possesses a valid A.B.C. license under Ordinance No. 17-2001 or Ordinance No. 12-2002, it shall be unlawful for any person on the premises of a commercial business establishment to drink any intoxicating beverages, either in or out of a motor vehicle, or to possess any open bottle or other receptacle containing any alcoholic beverage.

BE IT FURTHER ORDERED that the Mayor of the City of Elizabethtown, Kentucky and/or his designatee is authorized and directed to take all steps necessary to perfect this Order.

READ THE FIRST TIME, this 15th day of July, 2002.

READ, ADOPTED AND APPROVED, this 5th day of August, 2002.

DAVID WILLMOTH, JR., MAYOR

ATTEST TO:

MARY CHAUDOIN, CITY CLERK

ORDINANCE NO. 12 -- 2002

**ALCOHOLIC BEVERAGE CONTROL ORDINANCE
KRS 242.185 (6)**

BE IT ORDAINED BY the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance, the following:

ARTICLE I -- IN GENERAL

Purpose:

The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage sales pursuant to KRS 242.185 (6) for any restaurant or dining facility which seats a minimum of 100 persons and which derives a minimum of seventy (70%) percent of its gross receipts from the sale of food. To realize this intent, the City shall implement this Ordinance in such a manner as to assure that:

(a) Restaurants and dining facilities licensed under this Ordinance shall seat a minimum of one hundred (100) persons. Only permanent seating, excluding bar-type stools, patio seating or temporary chairs available as needed, satisfies this seating threshold. Said seating must comply with all fire and safety capacity ratings and regulations.

(b) The sale of alcoholic beverages shall be accessory to the sale of food, offered only during times in which the licensee's kitchen and food service staff is on duty.

(c) Restaurants and dining facilities licensed under this Ordinance shall derive a minimum of seventy (70%) percent of their gross receipts from the sale of food as certified by periodic documentation.

Definitions:

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

Scope:

This Ordinance shall only apply to the sale of malt, wine and distilled spirits on the premises of the licensee. Nothing in this Ordinance 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 of Kentucky relating to violations pertaining to alcoholic beverages.

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

ARTICLE II -- LICENSES

Scope:

Under this Ordinance a license shall only be extended to the owners and/or operators of those establishments which qualify under KRS 242.185 (6).

ARTICLE III -- DUTIES OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

(a) The duties of the office of City Alcoholic Beverage Control Administrator (hereinafter referred to

as City ABC Administrator) are assigned to the office of the Finance Director.

(b) The Mayor of the City shall appoint a City ABC Administrator.

(c) The salary for said office, if any, 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 of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City Council.

(e) No person shall be a City 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. (KRS 241.170).

(f) The City ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.

(g) Should the City ABC Administrator at any time have reasonable grounds 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 shall have the authority to require such person to appear in person at the Elizabethtown Police Department for the purpose of having his or her fingerprints taken.

(h) The City ABC Administrator for entering upon his or her duties as such, shall take the oath 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 five thousand (\$5,000.00) dollars, and shall swear to faithfully perform the duties of his or her office pursuant to the provisions of Section 62.060 of the Kentucky Revised Statutes et seq.

The cost of any necessary bond required under this section shall be borne by the City of Elizabethtown.

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

ARTICLE IV -- APPLICATION/LICENSE

(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) The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.

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

(b) All licenses granted under this Ordinance shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board and the City of Elizabethtown, as amended and

supplemented from time to time.

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

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Elizabethtown 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;
- (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.

Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City ABC Administrator shall transmit the same to the City Finance Department for deposit into the appropriate designated account.

(d) 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.

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

- (1) The name and address of the licensee
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, 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;
- (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.

(f) All licenses approved by the City ABC Administrator and issued by the City of Elizabethtown

shall begin on January 1 of any year and shall expire on December 31.

(g) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

(h) Any licenses issued after July 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.

(i) In addition, any other penalties allowed by this Ordinance or any other statutory provision, a violation of this section shall authorize and require the revocation of the license and the City shall not be required to refund any portion of the license fee.

Fees KRS 243.070:

(a) The annual City License fee for the sale of wine and distilled spirits shall be \$1,000.00. The City, with approval of the City Council, may increase this fee if allowed by Kentucky Revised Statutes.

(b) The annual City License fee for the sale of malt beverages shall be \$200.00 per year.

(c) The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City Licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board 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.

Refund of License fees:

Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the laws of

the State of Kentucky 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 wrong doing by licensee or agent or employee of the licensee.

Lost or Destroyed Licenses:

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after he shall be satisfied as to the facts, provided, however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) Dollars for issuing said duplicate.

Temporary Closing:

In the course of any one day of operation of a licensed premise should multiple violations of the ordinance or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the City Police Department, such reoccurrence shall be reported to the City ABC Administrator by the Chief of Police. The City ABC Administrator shall, in the interest of public health, safety, morals and welfare, direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City ABC Administrator, such review shall occur on the next business day.

Revocation or Suspension:

(a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 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 Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors of any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his sound discretion deems sufficient.

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

(c) Any license must be revoked or suspended for the following causes:

(1) Conviction of the licensee or his 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 (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) 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 (1) such felony and one (1) 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 Ordinance 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.

(5) Revocation of any license granted under any act of congress relative to the regulation of manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set

by federal or state regulations.

(6) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

Notice to Licensee; Surrender of License; Hearing:

(a) Within three (3) 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. The licensee shall at once surrender his license to the City ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the City ABC Administrator shall immediately cause one of his officers to take physical possession of the license and return it to the City ABC Administrator.

(b) When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his stock of alcoholic beverages to an appropriate entity.

(c) Appeal from the decision of the City ABC Administrator shall be to the ABC Board.

(d) If a license is revoked or suspended by an order of the City ABC Administrator, the licensee shall at once suspend all operations authorized under his license.

Transfer or Assignment:

No license issued under this Ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of One Hundred Dollars (\$100.00) shall be made to the City ABC Administrator.

Refusal of License:

A City license shall be refused:

- (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; or
- (c) If the applicant has made any false material statement in his application.

A license (new issuance, transfer or renewal) may be refused by the City ABC Administrator for any reason which he, in the exercise of his sound discretion, may deem sufficient.

Review of License:

Applicants to whom a license is issued authorizing the sale of alcoholic beverages by the drink pursuant to this Ordinance shall provide periodic information demonstrating compliance with the continuing requirement that seventy percent (70%) 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 quarterly regulatory fee filings.

This information shall consist of a certificate from a Certified Public Accountant familiar with the applicant's pertinent business records. This certificate shall state:

"I have conducted a limited scope audit according to accepted accounting principles of the pertinent records of _____, Licensee under Ordinance No. 12-2002, and certify that the Licensee earned at least seventy (70%) percent of its gross receipts from the sale of food during the quarter

ending _____ . The Licensee derived _____% of its gross sales from food and _____% of its gross receipts from alcohol."

This certificate shall include a brief description of the methodology utilized in the determination of the certified percentage.

Regulatory License Fee:

(a) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. Said license fee shall be five (5%) percent of gross sales of alcoholic beverages as set by the City Council. The City Council shall adopt at the beginning of each budget period for each fiscal year such percentage rates 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. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed and such regulatory fee shall be applied annually from January 1 to December 31.

(b) Payment of such regulatory fees shall be remitted to the City ABC Administrator, and shall accompany the tax returns approved for such use by the City Council. These returns and payments are due no later than by the end of the month immediately following each calendar quarter at which time one-fourth (1/4) of the annual fees shall be deducted as a credit.

(c) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension revocation.

(d) Penalty for failure to file a return and pay quarterly remittance by the due date is five percent (5%) of the tax for each ninety (90) days or fraction thereof. The total late filing penalty shall not

exceed twenty-five percent (25%) of the tax, provided, however, that in no case shall the penalty be less than Ten Dollars (\$10.00).

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

Change of Information:

(a) Since a number of licenses issued by the City are in the name of 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 ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.

(c) 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 Kentucky. If Elizabethtown 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;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

This information shall be filed with the City ABC Administrator as an amendment of the

application pursuant to which the license was granted.

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 ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.

(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 City ABC Administrator.

(c) Except that the provisions of subsection (a) hereof 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, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, 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 the ninety (90) days of inactivity, for any of the reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy 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 twelve (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 sound discretion.

(d) All renewal licenses must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be 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 twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing 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.

Approval of Premises:

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

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 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. 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.

Books, Records and Reports:

(a) Every licensee under this Ordinance shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable 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 review.

(b) For the purpose of assisting the City ABC Administrator in enforcement of this Ordinance, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the City ABC Administrator.

ARTICLE V -- HOURS FOR SALE AND DELIVERY; RESTRICTIONS

(a) Upon the licensee being granted a license for the retail sales of distilled spirits, wine and malt beverages by the drink for consumption on its premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m.

(b) The licensee may sell or dispense distilled spirits, malt beverages and wine on Sunday between the hours of 1:00 p.m. and 12:00 a.m.

(c) The licensee shall provide a separate locked department in which all stocks of distilled spirits,

wine and malt beverages are kept during these hours when sales are prohibited. KRS 244.290.

(d) All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular or primary election day.

The licensee shall remain closed during the hours the polls are open on any regular or primary election day unless it can provide a separate locked department in which all stock of distilled spirits, wine and malt beverages are kept during the hours the polls are open. KRS 244.290.

ARTICLE VI – CONDITIONS, PROHIBITIONS AND RESTRICTIONS

Conditions, Prohibitions and Restrictions:

(a) No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(b) It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Hardin County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(c) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further

necessary to discourage unlawful activity in and around the licensed premises.

(d) It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.

(e) 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.

(f) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(g) The licensee shall display at all times in a prominent place a sign at least 8" x 11" 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.*

(h) The licensee, before commencing any business for which a license has been issued, shall post and display 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.

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.

(i) The licensee shall post in a 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.

A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895.

(j) Any off premises signage advertising the sale of alcoholic beverages is prohibited.

(k) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(l) No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

1. Has been convicted of any felony, misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages, within the last two (2) years;
2. Is under the age of twenty (20) years who will be serving alcoholic beverages.
3. Within two (2) years prior to the date of his employment, has had any City license under this Ordinance revoked for cause.

Violation of this subsection shall subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license.

(m) All persons who shall be serving alcoholic beverages shall undergo any training required by the state ABC Office, the cost of which shall be the responsibility of the licensee.

(n) The licensee shall only distribute alcoholic beverages during times in which the licensee's kitchen and food service staff are on duty.

ARTICLE VII -- ENFORCEMENT

Enforcement:

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

Penalties:

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

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

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

ARTICLE VIII -- SEVERABILITY

If any portion of this Ordinance is declared null and void, the remaining provisions will remain in full force and effect.

ARTICLE IX -- EFFECTIVE DATE

Prohibition is lifted for the limited purpose hereinabove effective August 3, 2002.

BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or his designatee, be and he is hereby authorized and directed to take all steps necessary to perfect this Ordinance.

READ THE FIRST TIME, this 17th day of June, 2002.

READ, ADOPTED AND APPROVED, this 1st day of July, 2002.

DAVID WILLMOTH, JR., MAYOR

ATTESTED TO:

MARY CHAUDOIN, CITY CLERK

ORDINANCE NO. 17 - 2001

**ALCOHOLIC BEVERAGE CONTROL ORDINANCE
KRS 242.123**

BE IT ORDAINED BY the City of Elizabethtown, Kentucky, that from and after the passage, approval and publication of this Ordinance, the following:

ARTICLE I -- IN GENERAL

Purpose:

The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing of alcoholic beverage sales at Pine Valley Golf Course, an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course, and which held a local option election for the limited sale of alcoholic beverages in its precinct. Said local option election voted favorably for the lifting of prohibition for the limited sale of alcoholic beverages by the drink for that golf course on June 19, 2001. This election has been certified by Glen D. Dalton Judge/Executive for Hardin County.

Definitions:

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

Scope:

This Ordinance shall apply to the sale of malt, wine and distilled spirits on the premises of the licensee. Nothing in this Ordinance 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 of Kentucky relating to violations pertaining to alcoholic beverages.

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

ARTICLE II -- LICENSES

Scope:

Under this Ordinance a license shall only be extended to the owners and/or operators of the Pine Valley Golf Course, a regulation 18 hole golf course as recognized by the United States Golf Association, which rests within a precinct which has lifted prohibition on a limited basis for the sale of alcoholic beverages by the drink on those premises.

ARTICLE III -- CREATION OF THE OFFICE OF THE CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

- (a) The City hereby creates the office of City Alcoholic Beverage Control Administrator (hereinafter referred to as City ABC Administrator) and assigns the duties of this office to the office of the Finance Director. Said office is created under the powers authorized by KRS 241.160.
- (b) The Mayor of the City shall appoint a City ABC Administrator.
- (c) The salary for said office, if any, 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 of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations,

except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until it has first been appropriately approved by the City Council.

(e) No person shall be a City 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. (KRS 241.170).

(f) The City ABC Administrator shall have all authority as authorized under Chapters 241 through 244 of the Kentucky Revised Statutes.

(g) Should the City ABC Administrator at any time have reasonable grounds 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 shall have the authority to require such person to appear in person at the Elizabethtown Police Department for the purpose of having his or her fingerprints taken.

(h) The City ABC Administrator for entering upon his or her duties as such, shall take the oath 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 five thousand (\$5,000.00) dollars, and shall swear to faithfully perform the duties of his or her office pursuant to the provisions of Section 62.060 of the Kentucky Revised Statutes et seq.

The cost of any necessary bond required under this section shall be borne by the City of Elizabethtown.

(i) Appeals from the orders of the City ABC Administrator may be taken to the ABC Board by filing

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

ARTICLE IV -- APPLICATION/LICENSE

(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) The advertisement shall state the name and addresses of the members of partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.

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

(b) All licenses granted under this Ordinance shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board and the City of Elizabethtown, as amended and supplemented from time to time.

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

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;

- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If Elizabethtown 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;
- (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.

Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee. Promptly upon receipt thereof the City ABC Administrator shall transmit the same to the City Finance Department for deposit into the appropriate designated account.

(d) 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.

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

- (1) The name and address of the licensee
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, 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;
- (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.

(e) All licenses approved by the City ABC Administrator and issued by the City of Elizabethtown shall begin on July 1 of any year and shall expire on June 30 of the following year.

(f) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or condonment of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

(g) Any licenses issued after July 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.

(h) In addition, any other penalties allowed by this Ordinance or any other statutory provision, a violation of this section shall authorize and require the revocation of the license and the City shall not be required to refund any portion of the license fee.

Fees:

(a) The annual City License fee for the sale of wine and distilled spirits shall be \$1,000.00. The City, with approval of the City Council, may increase this fee if allowed by Kentucky Revised Statutes.

(b) The annual City License fee for the sale of malt beverages shall be \$200.00 per year.

(c) The City ABC Administrator may require a separate license and fee for each different location on the premises of the licensee which distributes wine or distilled spirits.

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account. City Licenses shall be issued by the City ABC Administrator upon receipt of notice from the ABC Board 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.

Refund of License fees:

Should any licensee under this Ordinance be prohibited from conducting said business for the full period covered by the license because of any changes that may hereafter be made in the laws of the State of Kentucky 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 wrong doing by licensee or agent or employee of the licensee.

Lost or Destroyed Licenses:

When a license shall be lost or destroyed without fault on the part of the licensee or his agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after he shall be satisfied as to the facts, provided, however, that the person applying for said duplicate license shall pay a fee of Ten (\$10.00) Dollars for issuing said duplicate.

Temporary Closing:

In the course of any one day of operation of a licensed premise should multiple violations of the ordinance or other statutes or ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the City Police Department, such reoccurrence shall be reported to the City ABC Administrator by the Chief of Police. The City ABC Administrator shall, in the interest of public health, safety, morals and welfare, direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City ABC Administrator, such review shall occur on the next business day.

Revocation or Suspension:

(a) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of Kentucky Revised Statutes Chapters 241, 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 Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors of any rules or regulations of the City heretofore in existence or authorized by the terms of Kentucky Revised Statutes Chapters 241, 243 and 244 to be created, referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his sound discretion deems sufficient.

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

(c) Any license must be revoked or suspended for the following causes:

(1) Conviction of the licensee or his 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 (2) consecutive years, any licensee or any of his clerks, servants, agents or employees of the licensee shall have been convicted of two (2) 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 (1) such felony and one (1) 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 Ordinance 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.

(5) Revocation of any license granted under any act of congress relative to the regulation of manufacture, sale and transportation of alcoholic beverages. Any license must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.

(6) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

Notice to Licensee; Surrender of License; Hearing:

- (a) Within three (3) 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. The licensee shall at once surrender his license to the City ABC Administrator. If the revoked license is not forthwith surrendered by the licensee, the Chief of Police at the request of the City ABC Administrator shall immediately cause one of his officers to take physical possession of the license and return it to the City ABC Administrator.
- (b) When a license has been revoked, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his stock of alcoholic beverages to an appropriate entity.
- (c) Appeal from the decision of the City ABC Administrator shall be to the ABC Board.
- (d) If a license is revoked or suspended by an order of the City ABC Administrator, the licensee shall at once suspend all operations authorized under his license.

Transfer or Assignment:

No license issued under this Ordinance shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of One Hundred Dollars (\$100.00) shall be made to the City ABC Administrator.

Refusal of License:

A City license shall be refused:

- (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; or

(c) If the applicant has made any false material statement in his application.

A license (new issuance, transfer or renewal) may be refused by the City ABC Administrator for any reason which he, in the exercise of his sound discretion, may deem sufficient.

Regulatory License Fee:

(a) A regulatory license fee is imposed on the gross receipts of sale of alcoholic beverages of each license issued by the City ABC Administrator. Said license fee shall be a percentage of gross sales of alcoholic beverages as set by the City Council. The City Council shall adopt at the beginning of each budget period for each fiscal year such percentage rates 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. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed and such regulatory fee shall be applied annually from July 1 to June 30.

(b) Payment of such fee shall accompany the tax returns approved for such use by the City Council and shall be submitted to the City ABC Administrator by the 20th day of each month for the preceding month's sales one-twelfth (1/12) of the fee required shall be deducted each month as credit.

(c) Failure to pay such monthly remittance within ten (10) days of the due date constitutes a violation and subjects licensee to suspension revocation.

(d) Penalty for failure to file a return and pay monthly remittance by the due date is five percent (5%) of the tax for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed

twenty-five percent (25%) of the tax, provided, however, that in no case shall the penalty be less than Ten Dollars (\$10.00).

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

Change of Information:

(a) Since a number of licenses issued by the City are in the name of 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 secure ten percent (10%) of the outstanding stock. Transfer of more than ten percent (10%) of the total stock shall require a new license.

(c) 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 Kentucky. If Elizabethtown 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;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

This information shall be filed with the City ABC Administrator as an amendment of the

application pursuant to which the license was granted.

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 ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his business interrupted by situations not under his control, various exceptions to the dormancy rule have been included in this section.

(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 City ABC Administrator.

(c) Except that the provisions of subsection (a) hereof 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, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, 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 the ninety (90) days of inactivity, for any of the reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy 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 twelve (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 sound discretion.

(d) All renewal licenses must be on file with the City ABC Administrator within thirty (30) days prior to the expiration of the licenses for the preceding license period or the same shall be 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 twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing 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.

Approval of Premises:

The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the county health department, city building inspector, city and state fire marshal and all other inspections required by the Kentucky Building Code.

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 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. 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.

Books, Records and Reports:

(a) Every licensee under this Ordinance shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable 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 review.

(b) For the purpose of assisting the City ABC Administrator in enforcement of this Ordinance, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by Statute shall be furnished to the City ABC Administrator.

ARTICLE V -- HOURS FOR SALE AND DELIVERY; RESTRICTIONS

(a) Upon the licensee being granted a license for the retail sales of distilled spirits, wine and malt beverages by the drink for consumption on its premises, it shall not be permitted to sell or dispense said beverages Monday through Saturday between the hours of midnight and 6:00 a.m. Further, it shall not be allowed to sell or dispense distilled beverages and wine at any time during the 24 hours of a Sunday.

(b) The licensee may sell or dispense malt beverages on Sunday between the hours of 1:00 p.m. and

12:00 a.m.

(c) All delivery of alcoholic beverages in the City shall be made during normal business hours, Monday through Saturday. No delivery shall occur on Sunday.

The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any regular or primary election day.

The licensee shall remain closed during the hours the polls are open on any regular or primary election day unless it can provide a separate locked department in which all stock of distilled spirits, wine and malt beverages are kept during the hours the polls are open. KRS 244.290.

ARTICLE VI -- CONDITIONS, PROHIBITIONS AND RESTRICTIONS

Conditions, Prohibitions and Restrictions:

(a) No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(b) It shall be unlawful for any licensee licensed under this Ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Hardin County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(c) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further

necessary to discourage unlawful activity in and around the licensed premises.

(d) It shall be unlawful for the licensee under this Ordinance who sells alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages.

(e) 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.

(f) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(g) The licensee shall display at all times in a prominent place a sign at least 8" x 11" 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.*

(h) The licensee, before commencing any business for which a license has been issued, shall post and display 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.

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.

(i) The licensee shall post in a 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.

A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895.

(j) Any off premises signage advertising the sale of alcoholic beverages is prohibited.

(k) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(l) No licensee shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

1. Has been convicted of any felony, misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages, within the last two (2) years;
2. Is under the age of twenty (20) years who will be serving alcoholic beverages.
3. Within two (2) years prior to the date of his employment, has had any City license under this Ordinance revoked for cause.

Violation of this subsection shall subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license.

ARTICLE VII -- ENFORCEMENT

Enforcement:

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

Penalties:

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

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

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

ARTICLE VIII -- SEVERABILITY

If any portion of this Ordinance is declared null and void, the remaining provisions will remain in full force and effect.

BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or his designatee, be and he is hereby authorized and directed to take all steps necessary to perfect this Ordinance.

READ THE FIRST TIME, this 6th day of August, 2001.

READ, ADOPTED AND APPROVED, this 13th day of August, 2001.

DAVID WILLMOTH, JR., MAYOR

ATTESTED TO:

MARY CHAUDOIN, CITY CLERK