

**CITY OF FALMOUTH**  
**ORDINANCE NO. 2014 – 110.15D**

AN ORDINANCE AMENDING SECTIONS (D) (1), and (D) (3) OF ORDINANCE 2014-110.15A OF THE CITY OF FALMOUTH RELATING TO ALCOHOL BEVERAGE CONTROL: TO EXTEND THE HOURS FOR THE SALE OF DISTILLED SPIRITS, WINE, AND MALT BEVERAGES IN THE CITY ON SUNDAYS.

**WHEREAS**, the City of Falmouth repealed Chapter 113 of the Code of Ordinances and enacted a new Chapter 113 in Ordinance 2013-110.15A; and

**WHEREAS**, the City of Falmouth enacted Ordinance 2014-110.15A and Ordinance 2014-110.15B to permit the sale of distilled spirits, wine, and malt beverages in the City while the polls are open on any election day, or on Sundays; and

**WHEREAS**, the City Council of the City of Falmouth desires to again amend the Alcohol Beverage Control ordinances, to extend the hours for the sale of distilled spirits, wine, and malt beverages in the City on Sundays.

**NOW, THEREFORE**, be it Ordained by the City of Falmouth:

**Section 1.** That Section (D) (1) of Ordinance 2014-110.15A relating to alcohol beverage control be and hereby is amended to read as follows:

1. HOURS

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, the times and hours during which distilled spirits, wine, and malt beverages may be sold in the City are hereby established to be the hours after 6:00 a.m. prevailing time on any Monday, after 6:00 a.m. and before 12:30 a.m. prevailing time on any day except Sunday Tuesday,

Wednesday, Thursday, Friday, and Saturday, and the hours before 12:30 a.m. and after ~~1:00~~ 12:00 p.m. ~~and before 10:00 p.m.~~ prevailing time on any Sunday.

(B) During the hours before 6:00 a.m. prevailing time on any Monday, ~~and~~ after 12:30 a.m. and before 6:00 a.m. prevailing time on any ~~day except Sunday,~~ Tuesday, Wednesday, Thursday, Friday, or Saturday, and ~~the hours~~ after 12:30 a.m. and before ~~1:00~~ 12:00 p.m. ~~and after 10:00 p.m.~~ prevailing time on any Sunday, no person who has a valid City License shall cause, permit, or engage in any of the actions, business, or transactions authorized and permitted thereby. During such times, all persons who have such City Licenses shall cause the licensed Premises to be closed and vacated by all persons except the applicant and those persons identified on the application for such City Licenses or any supplements thereto as officers, agents, or employees of the person to whom such City License was issued. All other persons shall vacate the licensed Premises and remove themselves therefrom during such times; however, any person upon the Premises who purchased any alcoholic beverages by the drink from the City Licensee within thirty (30) minutes prior to any such times may remain upon the premises for a period not to exceed thirty (30) minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of such licensed Premises is maintained in a manner previously approved in writing by the City ABC Administrator as being capable of being locked, closed off, and separated from the remainder of the licensed Premises and all distilled spirits, wine, and malt beverages and all fixtures and apparatus connected with the acts of business and transactions authorized by the State Licenses and City

Licenses for the retail sale of distilled spirits, wine, and malt beverages from such Premises are located within such approved department, and such approved department is continuously kept locked, physically separated, and closed off from the remainder of the licensed Premises during such times, the remainder of the licensed Premises may remain open and any lawful activity may be conducted thereon during such times.

**Section 2.** That Section (D) (3) of Ordinance 2013-110.15A relating to alcohol beverage control be and hereby is amended to read as follows:

3. ADDITIONAL RESTRICTIONS ON SALE BY CERTAIN LICENSEE

(A) At no time shall any City Licensee holding a Nonquota Type 2 Retail Drink License sell any alcoholic beverage when the City Licensee does not have food available for sale, and in no event may any alcoholic beverage be sold before 6:00 a.m. prevailing time on Monday, between the hours of 12:30 a.m. and 6:00 a.m. Monday prevailing time on Tuesday through Saturday, nor after 12:30 a.m. or before ~~4:00~~ 12:00 p.m. ~~and after 10:00 p.m. prevailing time on Sunday.~~

(B) At no time shall any City Licensee holding a Nonquota Type 2 Retail Drink License sell any alcoholic beverage on Sunday unless the City Licensee also holds a Special Sunday License.

**Section 3.** This ordinance shall take effect upon its passage, approval, and publication in full as required by law.

Introduced and First Reading: Regular Meeting, March 11, 2014

Second Reading and Enacted: April 8, 2014

Signed by the Mayor: April 8, 2014

Recorded by Clerk: April 8, 2014

Published in Full: April 15, 2014

**CITY OF FALMOUTH, KENTUCKY**

BY: Mark Hart  
Mark Hart, Mayor

**ATTEST:**

Terry England  
Terry England, City Clerk

**CITY OF FALMOUTH**  
**ORDINANCE NO. 2014 - 110.15C**

AN ORDINANCE AMENDING SECTIONS (C) (1) (B), (D) (1), and (D) (3) OF ORDINANCE 2013-110.15A OF THE CITY OF FALMOUTH RELATING TO ALCOHOL BEVERAGE CONTROL: TO PERMIT THE SALE OF DISTILLED SPIRITS, WINE, AND MALT BEVERAGES IN THE CITY ON SUNDAYS.

**WHEREAS**, the City of Falmouth repealed Chapter 113 of the Code of Ordinances and enacted a new Chapter 113 in Ordinance 2013-110.15A; and

**WHEREAS**, the City Council of the City of Falmouth desires to amend the newly enacted Chapter 113 to permit the sale of distilled spirits, wine, and malt beverages in the City on Sundays.

**NOW, THEREFORE**, be it Ordained by the City of Falmouth:

**Section 1.** That Section (C) (1) (B) of Ordinance 2013-110.15A relating to alcohol beverage control be and hereby is amended to read as follows:

(C) LICENSES

1. CLASSIFICATION OF LICENSES; FEE SCHEDULE

(B) A person holding a distilled spirit State License shall be eligible to receive the City License for which provision is made herein upon the satisfaction of the requirements of this Chapter and the payment of the indicated fee:

- |                                                     |                 |
|-----------------------------------------------------|-----------------|
| (1) Quota Retail Package License, per annum         | \$600.00        |
| (2) Nonquota Type 2 Retail Drink License, per annum | \$600.00        |
| (3) <u>Special Sunday Drink License, per annum</u>  | <u>\$200.00</u> |

**Section 2.** That Section (D) (1) of Ordinance 2013-110.15A relating to alcohol beverage control be and hereby is amended to read as follows:

1. HOURS

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, the times and hours during which distilled spirits, wine, and malt beverages may be sold ~~at retail~~ in the City are hereby established to be the hours after 6:00 a.m. and before 12:30 a.m. prevailing time on any day except Sunday, and the hours after 1:00 p.m. and before 10:00 p.m. prevailing time on any Sunday ~~as further set out in this section~~. However, no distilled spirits or wine or malt beverages shall be sold at retail in the City during the hours the polls are open in the City on any election day.

(B) During the hours before 6:00 a.m. and after 12:30 a.m. prevailing time on any day except Sunday, and the hours after 12:30 a.m. and before 1:00 p.m. and after 10:00 p.m. prevailing time on any Sunday, ~~as further set out in this section~~, and the hours when any polls are open in the city on any election day, no person who has a valid City License ~~for the sale of distilled spirits or wine or malt beverages at retail~~ shall cause, permit, or engage in any of the actions, business, or transactions authorized and permitted thereby. During such times, all persons who have such City Licenses shall cause the licensed Premises to be closed and vacated by all persons except the applicant and those persons identified on the application for such City Licenses or any supplements thereto as officers, agents, or employees of the person to whom such City License was issued. All other persons shall vacate the licensed Premises and remove themselves therefrom during such times; however, any person upon the Premises who purchased any alcoholic

beverages by the drink from the City Licensee within thirty (30) minutes prior to any such times may remain upon the premises for a period not to exceed thirty (30) minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of such licensed Premises is maintained in a manner previously approved in writing by the City ABC Administrator as being capable of being locked, closed off, and separated from the remainder of the licensed Premises and all distilled spirits, wine, and malt beverages and all fixtures and apparatus connected with the acts of business and transactions authorized by the State Licenses and City Licenses for the retail sale of distilled spirits, wine, and malt beverages from such Premises are located within such approved department, and such approved department is continuously kept locked, physically separated, and closed off from the remainder of the licensed Premises during such times, the remainder of the licensed Premises may remain open and any lawful activity may be conducted thereon during such times.

~~(D) — Sunday sales.~~

~~(1) — The Sunday sales of alcoholic beverages as authorized in this section shall be limited to holders of Quota Retail Package Licenses only.~~

~~(2) — The Sunday sales of malt beverages as authorized in this section shall be limited to holders of Nonquota Retail Malt Beverage Package Licenses, and Sunday sales, authorized by this section shall not include any retail sale of malt beverages to be consumed upon the Premises or the sale of individual draughts, twelve (12) ounce cans, or twelve (12) ounce bottles of malt beverages.~~

**Section 3.** That Section (D) (3) of Ordinance 2013-110.15A relating to alcohol beverage control be and hereby is amended to read as follows:

3. ADDITIONAL RESTRICTIONS ON SALE BY CERTAIN LICENSEE

(A) At no time shall any City Licensee holding a Nonquota Type 2 Retail Drink License sell any alcoholic beverage when the City Licensee does not have food available for sale, and in no event may any alcoholic beverage be sold between the hours of 12:30 a.m. and 6:00 a.m., Monday through Saturday, nor before 1:00 p.m. and after 10:00 p.m. prevailing time on Sunday; nor on election day when the polls are open.

(B) At no time shall any City Licensee holding a Nonquota Type 2 Retail Drink License sell any alcoholic beverage on Sunday unless the City Licensee also holds a Special Sunday License.

**Section 4.** This ordinance shall take effect upon its passage, approval, and publication as required by law.

Introduced and First Reading: Regular Meeting, January 14, 2014

Second Reading and Enacted: Regular Meeting, February 11, 2014

Signed by the Mayor: February 14, 2014

Recorded by Clerk: February 14, 2014

Published in Full: February 18, 2014

**CITY OF FALMOUTH, KENTUCKY**

BY: Mark Hart  
Mark Hart, Mayor

**ATTEST:**

*Terry England*

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Terry England, City Clerk

**CITY OF FALMOUTH**  
**ORDINANCE NO. 2014 – 110.15 B**

AN ORDINANCE AMENDING SECTIONS (D) (1) (A), (D) (1) (B), and (D) (3) OF ORDINANCE 2013-110.15A OF THE CITY OF FALMOUTH RELATING TO ALCOHOL BEVERAGE CONTROL: TO PERMIT THE SALE OF DISTILLED SPIRITS, WINE, AND MALT BEVERAGES IN THE CITY WHILE THE POLLS ARE OPEN ON ANY ELECTION DAY.

**WHEREAS**, the City of Falmouth repealed Chapter 113 of the Code of Ordinances and enacted a new Chapter 113 in Ordinance 2013-110.15A; and

**WHEREAS**, the City Council of the City of Falmouth desires to amend the newly enacted Chapter 113 to permit the sale of distilled spirits, wine, and malt beverages in the City while the polls are open on any election day.

**NOW, THEREFORE**, be it Ordained by the City of Falmouth:

**Section 1.** That Section (D) (1) (A) of Ordinance 2013-110.15A relating to alcohol beverage control be and hereby is amended to read as follows:

(D) SALE OF ALCOHOLIC BEVERAGES

1. HOURS

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, the times and hours during which distilled spirits, wine, and malt beverages may be sold at retail in the City are hereby established to be the hours after 6:00 a.m. and before 12:30 a.m. prevailing time on any day except Sunday, and the hours after 1:00 p.m. and before 10:00 p.m. prevailing time on any Sunday as further set out in this section. ~~However, no distilled spirits or wine or malt beverages shall be sold at retail in the City during the hours the polls are open in the City on any election day.~~

**Section 2.** That Section (D) (1) (B) of Ordinance 2013-110.15A relating to alcohol beverage control be and hereby is amended to read as follows:

(B) During the hours before 6:00 a.m. and after 12:30 a.m. prevailing time on any day except Sunday, and the hours after 12:30 a.m. and before 1:00 p.m. and after 10:00 p.m. prevailing time on any Sunday, as further set out in this section, ~~and the hours when any polls are open in the city on any election day,~~ no person who has a valid City License ~~for the sale of distilled spirits or wine or malt beverages at retail~~ shall cause, permit, or engage in any of the actions, business, or transactions authorized and permitted thereby. During such times, all persons who have such City Licenses shall cause the licensed Premises to be closed and vacated by all persons except the applicant and those persons identified on the application for such City Licenses or any supplements thereto as officers, agents, or employees of the person to whom such City License was issued. All other persons shall vacate the licensed Premises and remove themselves therefrom during such times; however, any person upon the Premises who purchased any alcoholic beverages by the drink from the City Licensee within thirty (30) minutes prior to any such times may remain upon the premises for a period not to exceed thirty (30) minutes thereafter for the sole purpose of the consumption of the drink purchased.

**Section 3.** That Section (D) (3) of Ordinance 2013-110.15A relating to alcohol beverage control be and hereby is amended to read as follows:

**3. ADDITIONAL RESTRICTIONS ON SALE BY CERTAIN LICENSEE**

At no time shall any City Licensee holding a Nonquota Type 2 Retail Drink License sell any alcoholic beverage when the City Licensee does not have food available

for sale, and in no event may any alcoholic beverage be sold between the hours of 12:30 a.m. and 6:00 a.m., Monday through Saturday, nor on Sunday, ~~nor on election day when the polls are open.~~

**Section 3.** This ordinance shall take effect upon its passage, approval, and publication as required by law.

Introduced and First Reading: Regular Meeting, January 14, 2014

Second Reading and Enacted: Regular Meeting, February 11, 2014

Signed by the Mayor: February 14, 2014

Recorded by Clerk: February 17, 2014

Published in Full: February 18, 2014

**CITY OF FALMOUTH, KENTUCKY**

BY: Mark Hart  
Mark Hart, Mayor

**ATTEST:**

Terry England  
Terry England, City Clerk

**CITY OF FALMOUTH**  
**ORDINANCE NO. 2013-110-15A**

AN ORDINANCE REPEALING IN ITS ENTIRETY CHAPTER 113 OF THE CODE OF ORDINANCES RELATING TO ALCOHOLIC BEVERAGES, AND ENACTING A NEW CHAPTER 113 OF THE CODE OF ORDINANCES RELATING TO ALCOHOLIC BEVERAGES.

**WHEREAS**, the 2013 General Assembly of the Commonwealth has extensively revised and amended the statutes relating to the manufacture, sale, licensing, and regulation of alcoholic beverages in the Commonwealth; and

**WHEREAS**, the ordinances relating to such of the City of Falmouth must therefore be extensively revised and amended to conform with the statutory changes in the law of the Commonwealth; and

**WHEREAS**, the City Council of the City of Falmouth having over the years revised and amended its ordinances relating to the sale, licensing, and regulation of alcoholic beverages in the City; and

**WHEREAS**, the City Council having determined it is necessary and proper to repeal and re-enact its alcoholic beverage ordinances, rather than extensively amend them, in order to better present same as a cohesive and comprehensive scheme.

**NOW, THEREFORE**, be it ordained by the City of Falmouth:

Section 1. That Chapter 113 of the Code of Ordinances be and hereby is Repealed in its entirety.

Section 2. That a new Chapter 113 of the code of Ordinances Relating to Alcoholic Beverages be and hereby is enacted to read as follows:

(A) GENERAL PROVISIONS

1. DEFINITIONS

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) As used herein the words and phrases defined in KRS 241.010 have the meanings indicated therein.

(B) The following words and phrases have the meanings indicated:

(1) "BOARD." The State Alcoholic Beverage Control Board established pursuant to KRS 241.030.

(2) "CITY ALCOHOL BEVERAGE CONTROL ADMINISTRATOR or CITY ABC ADMINISTRATOR." The person appointed to the office of Alcoholic Beverage Control Administration created and established by the city pursuant to this Chapter.

(3) "CITY LICENSE." A license established and authorized pursuant to the terms hereof.

(4) "CITY LICENSEE." A person who has been issued a City License pursuant to the terms hereof.

(5) "KRS." Kentucky Revised Statutes.

(6) "PERSON." Any natural person, corporation, partnership, joint venture, or unincorporated association of persons or any combination thereof, and the shareholders, officers, agents, servants, and employees thereof.

(7) "PREMISES." The premises described in the City License issued pursuant to the terms hereof and the application therefor.

(8) "STATE." The Commonwealth of Kentucky.

(9) "STATE LICENSE." A license authorized by KRS 243.030 to 243.680.

(10) "TRAFFIC IN ALCOHOLIC BEVERAGES." Any action, business, or transaction in regard to the production, storage, transportation, distribution, sale, delivery, and transfer of alcoholic beverages.

## 2. COMPLIANCE WITH STATUTE

The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapters 241, 242, 243, and 244 pertaining to licensing and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted, except as otherwise lawfully provided herein.

### (B) CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

1. The responsibility for the enforcement and administration of this chapter and all other ordinances of this City regulating traffic in alcoholic beverages in the City is vested in the office of City Alcoholic Beverage Control Administrator ("City ABC Administrator").

2. The City ABC Administrator is authorized to examine and inspect, at any reasonable time, all books and records required to be maintained by licensees under KRS 244.150. The licensee shall submit to the City ABC Administrator a copy of all reports which the licensee is required or elects to submit to or file with the State Alcoholic Beverage Control Board.

3. The City ABC Administrator shall have the power and duty to suspend or revoke for cause a license granted for the purpose of KRS 242.185. The City ABC Administrator, on his or her own initiative or on complaint of any person, may institute proceedings to suspend or revoke any license issued under this chapter.

### (C) LICENSES

#### 1. CLASSIFICATION OF LICENSES; FEE SCHEDULE

(A) 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 the following City License for each corresponding State License issued in accordance with KRS Chapter 243. The actions, business, and transactions authorized and permitted thereby shall be and are the same as those of the State Licenses to which the City Licenses correspond.

(B) A person holding a distilled spirit State License shall be eligible to receive the City License for which provision is made herein upon the satisfaction of the requirements of this Chapter and the payment of the indicated fee:

- (1) Quota Retail Package License, per annum \$600.00
- (2) Nonquota Type 2 Retail Drink License, per annum \$600.00

(C) A person holding a malt beverage State License shall be eligible to receive the City License for which provision is made herein upon the satisfaction of the requirements of this Chapter and the payment of the indicated fee:

- (1) Nonquota Retail Malt Beverage Package License, per annum \$200.00
- (2) Nonquota Type 4 Retail Malt Beverage Drink License, per annum \$200.00
- (3) The holder of a Nonquota Retail Malt Beverage Package License may obtain a Nonquota Type 4 Retail Malt Beverage Drink License for a fee of fifty dollars (\$50.00). The holder of a Nonquota Type 4 Retail Malt Beverage Drink License may obtain a Nonquota Retail Malt Beverage Package License for a fee of fifty dollars (\$50.00).

(D) A person holding a special temporary State License shall be eligible to receive the City License for which provision is made herein upon the satisfaction of the requirements of this Chapter and the payment of a per event fee of one hundred sixty-six and sixty-six one hundredths dollars (\$166.66).

(E) No person shall cause, permit, or engage in any of the actions, business, or transactions authorized by a City License or State License within the City without both a valid City License and a valid State License.

## 2. FORM, CONTENT OF CITY LICENSE

(A) The City Licenses authorized and established hereby shall each be evidenced by a document, the form and content of which shall be prescribed by regulation of the City ABC Administrator.

(B) However, the documents must be of the same color and designation as those of the state licenses to which the city licenses correspond and must:

(1) Comply with all of the provisions for State Licenses required by KRS 243.440; and

(2) Contain a declaration that the license authorizes the search of the licensed Premises by any peace officer at any time for any purpose; the removal

therefrom of any evidence of any crime or other violation of any law; and the use thereof in any trial or hearing in regard thereto.

### 3. LICENSE APPLICATION

(A) Representatives of restaurants, dining facilities, hotels, motels, or inns seeking the license for which provision is made herein shall submit a completed application to the City ABC Administrator. The form provided may be the same form utilized by the State Alcoholic Beverage Control Board.

(B) The applicant for a City License for which provision is made herein shall tender with its application a consent document which shall state: "The undersigned applicant hereby grants its irrevocable consent to the City ABC Administrator, or his or her duly appointed designee, to come upon and inspect and search the licensed premises at any reasonable time."

### 4. APPROVAL OF APPLICATION

Within thirty (30) days of the date of the application for an original City License for which provision is made herein and fifteen (15) days of the date of any application for renewal of such license, the City ABC Administrator shall, by mail or personal delivery, notify the applicant, in writing, of either the approval or the disapproval thereof or whether a hearing in regard thereto shall be held.

### 5. DENIAL OF APPLICATION

As is similarly set forth in KRS 243.450, the City ABC Administrator shall not approve any application for a City License for which provision is made herein if:

(A) The applicant, the application or the Premises described therein do not fully comply with the provisions of this subchapter and all laws in regard to alcoholic beverages.

(B) The applicant and/or any shareholder, officer, agent, servant, or employee has caused, permitted, or engaged in any act for which the revocation or non-issuance of a State or City License is authorized, including, but not limited to, those acts as are defined in KRS 243.100, 243.450, 243.500, or 244.120.

(C) The applicant and/or any shareholder, officer, agent, servant, or employee had a State License or City License which was revoked within two (2) years of the date of application, where the Premises or any portion thereof described in a State License or City License was revoked during such time.

(D) Any statement or representation in the application is false.

## 6. SUSPENSION, REVOCATION OF LICENSE

(A) Pursuant to the procedure set forth in KRS 243.480 through 243.590, a City License may be either revoked or suspended by the City ABC Administrator upon the occurrence of:

(1) Any violation of the provisions of this chapter or any other alcoholic beverage control ordinance of the City;

(2) Any violation of any provision of state law in regard to alcoholic beverages or the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto; or

(3) Any other cause, reason, or circumstance for which a State License may be revoked or suspended by the Board.

(B) However, City Licenses must be revoked by the City ABC Administrator upon the occurrence of any cause or circumstance which requires revocation of State Licenses pursuant to KRS 243.500 or the revocation of a State License to which a City License corresponds. Further, with the approval of the City ABC Administrator, a licensee may, as an alternative and in lieu of part or all of the days of any suspension period, pay the following sums to the City as set forth in KRS 243.480: distillers, rectifiers, vintners, brewers, and blenders: \$1000 per day; wholesale liquor licensees: \$400 per day; wholesale beer licensees: \$400 per day; retail drink liquor licensees: \$50 per day; retail package liquor licensees: \$50 per day; retail beer licensees: \$25 per day; and all remaining licensees: \$10 per day.

(C) The procedure for the revocation or suspension of a City License shall consist of a written notice signed by the City ABC Administrator and mailed to the City Licensee at the address of the licensed Premises by certified mail, describing the cause, circumstance, or occurrence and the time and date thereof for which the City License may be revoked and indicating the time and place of a hearing in regard thereto at least five (5) days thereafter at which the City Licensee and the representatives thereof shall be heard thereon.

## 7. HEARINGS

Should a request for a hearing be made for the refusal to issue or renew a license or for the suspension or revocation of a license, the City ABC Administrator is to hold said hearing consistent with KRS Chapter 13B and pursuant to the general practice procedures found in the Kentucky Rules of Civil Procedure and the following shall apply:

(A) Definitions. All words are used as defined in the alcoholic beverage control law of Kentucky (KRS Chapters 241, 242, 243 and 244), unless otherwise specified.

(B) Appearances. Any applicant or licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the City ABC Administrator.

(C) Briefs. Briefs may be filed at the request of the City ABC Administrator, or at the option of the applicant or licensee.

(D) Rules of evidence. The rules of evidence governing civil proceedings in courts of the Commonwealth of Kentucky shall govern hearings before the City ABC Administrator; provided, however, that the hearing officer may relax such rules in any case where, in his or her judgment, the ends of justice will be better served by so doing.

(E) Subpoenas. The City ABC Administrator shall have subpoena power for such hearings and shall at the request of the applicant made with names and addresses of those desired issue with subpoenas.

(F) Transcripts. Upon request and at the costs of the applicant or licensee the hearing may be transcribed.

(G) Decisions. All decisions shall be written and based upon evidence developed at the hearing.

#### 8. EXPIRATION DATE OF LICENSE; RENEWAL

(A) A license issued pursuant to this subchapter shall expire on June 30 of the year following the year in which the license was issued.

(B) Application for renewal of any City License shall be submitted no later than thirty (30) days before expiration thereof and shall be made pursuant to the Approval of Application portion of this subsection upon a showing and criteria therefore has been met, the filing and approval of a renewal application, and the payment of a renewal fee equal to the City License fee.

(C) The renewal of any City License issued pursuant to this subchapter 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 City Licensee.

(D) No license issued under this subchapter shall be transferred or assigned

either as to license or location except with the prior approval of the City ABC Administrator and not then until a payment of \$100 shall be made to the city.

## 9. REGULATORY LICENSE FEES

(A) A regulatory license fee is imposed on the gross receipts of the sale of alcoholic beverages, to include distilled spirits, wine, and malt beverages, of each license issued under this Chapter. The license fee for the effective date July 1, 2007 shall be 2%. Thereafter the City Council shall annually adopt at the budget adoption of each fiscal year such percentage rates as shall be reasonably estimated to ensure full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expenses, relating to the sale of alcoholic beverages. Such fees shall be an 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 by this subchapter and such regulatory fee shall be applied annually.

(B) Payment of such fees shall accompany the tax returns approved for such use by the City and shall be submitted to the City ABC Administrator by the 20th day of each month for the preceding month's sales, one-twelfth of the annual license fee required under this subchapter shall be deducted each month as a credit.

(C) Failure to pay such monthly remittance within ten (10) days of the due date constitutes a violation and subjects City Licensee to suspension or revocation of said City License by the City ABC Administrator.

(D) Penalty for failure to submit a tax return to the ABC Administrator by the due date is ten dollars (\$10.00) for each late return.

(E) Penalty for failure pay the monthly remittance by the due date is 20% of the amount owed.

(E) Interest on the unpaid remittance, including the penalty for failing to file the tax return, if applicable, shall be calculated at the rate of one-half of one (1/2%) per cent each month or fraction thereof.

## (D) SALE OF ALCOHOLIC BEVERAGES

### 1. HOURS

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, the times and hours during which distilled spirits, wine, and malt beverages may be sold at retail in the City are hereby established to be the hours after 6:00 a.m. and before 12:30 a.m. prevailing time on any day except Sunday, and the hours after 1:00 p.m. and before 10:00

p.m. prevailing time on any Sunday as further set out in this section. However, no distilled spirits or wine or malt beverages shall be sold at retail in the City during the hours the polls are open in the City on any election day.

(B) During the hours before 6:00 a.m. and after 12:30 a.m. prevailing time on any day except Sunday, and the hours after 12:30 a.m. and before 1:00 p.m. and after 10:00 p.m. prevailing time on any Sunday, as further set out in this section, and the hours when any polls are open in the city on any election day, no person who has a valid City License for the sale of distilled spirits or wine or malt beverages at retail shall cause, permit, or engage in any of the actions, business, or transactions authorized and permitted thereby. During such times, all persons who have such City Licenses shall cause the licensed Premises to be closed and vacated by all persons except the applicant and those persons identified on the application for such City Licenses or any supplements thereto as officers, agents, or employees of the person to whom such City License was issued. All other persons shall vacate the licensed Premises and remove themselves therefrom during such times; however, any person upon the Premises who purchased any alcoholic beverages by the drink from the City Licensee within thirty (30) minutes prior to any such times may remain upon the premises for a period not to exceed thirty (30) minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of such licensed Premises is maintained in a manner previously approved in writing by the City ABC Administrator as being capable of being locked, closed off, and separated from the remainder of the licensed Premises and all distilled spirits, wine, and malt beverages and all fixtures and apparatus connected with the acts of business and transactions authorized by the State Licenses and City Licenses for the retail sale of distilled spirits, wine, and malt beverages from such Premises are located within such approved department, and such approved department is continuously kept locked, physically separated, and closed off from the remainder of the licensed Premises during such times, the remainder of the licensed Premises may remain open and any lawful activity may be conducted thereon during such times.

(D) Sunday sales.

(1) The Sunday sales of alcoholic beverages as authorized in this section shall be limited to holders of Quota Retail Package Licenses only.

(2) The Sunday sales of malt beverages as authorized in this section shall be limited to holders of Nonquota Retail Malt Beverage Package Licenses, and Sunday sales, authorized by this section shall not include any retail sale of malt beverages to be consumed upon the Premises or the sale of individual draughts, twelve (12) ounce cans, or twelve (12) ounce bottles of malt beverages.

## 2. COMPLIANCE WITH REGULATIONS AND PROHIBITIONS

(A) At all times during which any person has a valid City License issued pursuant to the provisions hereof, that person shall fully comply with all of the rules, regulations, requirements, and prohibitions set forth in this chapter.

(B) A City Licensee shall comply fully with all of the provisions hereof and all of the rules and regulations of the City ABC Administrator in regard thereto; all provisions of the state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard to the licensed Premises and the actions, business, and transactions conducted thereon subsequent to the issuance of a State License therefor and prior to the expiration, revocation, or suspension thereof which are hereby incorporated herein and made applicable to all City Licenses corresponding thereto, the Premises described therein, and the actions, business, and transactions conducted thereon; and the City Licensee shall comply fully therewith.

## 3. ADDITIONAL RESTRICTIONS ON SALE BY CERTAIN LICENSEE

At no time shall any City Licensee holding a Nonquota Type 2 Retail Drink License sell any alcoholic beverage when the City Licensee does not have food available for sale, and in no event may any alcoholic beverage be sold between the hours of 12:30 a.m. and 6:00 a.m., Monday through Saturday, nor on Sunday, nor on election day when the polls are open.

## 4. MAINTENANCE OF STATE LICENSE

A City Licensee shall maintain the State License to which the City License corresponds and fully comply with all State statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto.

## 5. DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS

As required by KRS 244.083, a City Licensee who has a valid City License shall cause to be displayed in a conspicuous and prominent place on the licensed Premises each of the following documents so that they may be seen and observed by all Persons entering the licensed Premises:

(A) A sign or placard at least eight inches by eleven inches (8" x 11") in size with the following message printed or displayed thereon in thirty (30) point or larger type:

"Persons under the age of twenty-one (21) years are subject to a fine up to Five Hundred (\$500.00) Dollars if they:

a. Enter licensed premises to buy or have served or delivered to them any alcoholic beverages; or

b. Possess, purchase or attempt to purchase any alcoholic beverages; or

c. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages."

(B) All valid City Licenses issued therefor and the State Licenses to which they correspond. The failure to so display such licenses shall be prima facie evidence that no such valid licenses have been issued or exist and all actions, business, and transactions authorized thereby conducted on such Premises are illegal and in violation of the provisions hereof and the state statutes and regulations of the State Alcoholic Beverage Control Board in regard thereto.

#### 6. CRIMINAL CONDUCT ON PREMISES PROHIBITED

A City Licensee shall not cause, permit, or engage in any conduct upon the licensed Premises by either the commission of a prohibited act or the omission of a required act which is a crime or other violation of any law, rule, or regulation of any governmental agency having jurisdiction thereof or any officer or agency thereof.

#### 7. CONDUCTING BUSINESS WITH MINOR

As prohibited by KRS 244.080 and 244.085, no person shall cause, permit, encourage, or engage in any of the following actions in the City:

(A) The possession or consumption of any alcoholic beverages by any person under twenty one (21) years of age in or upon any licensed Premises or public places; and

(B) The misrepresentation of the name, address, age, or other identification of any person under twenty one (21) years of age for the purpose of obtaining alcoholic beverages.

#### 8. ILLEGAL SEXUAL CONDUCT; EXPOSURE OF HUMAN BODY

No person shall cause, permit, encourage, or engage in any of the following activities or display still or motion pictures thereof on licensed Premises:

(A) Sexual conduct as defined in KRS 531.010(4).

(B) The appearance of any human being, clothed or unclothed, in such a manner that any portion of the following body members are exposed to view:

- (1) The nipple of the female breast.
- (2) The female breast below the nipple.
- (3) The genitalia.
- (4) The pubic hair.
- (5) The anus.

## 9. DORMANCY

(A) It is necessary that a City Licensee actually conduct the business authorized by the City License for which provision is made herein or else the City License will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a City Licensee, like any other business, may have his/her business interrupted by situations not under his/her control, various exceptions to the dormancy rule have been included in this section.

(B) Any City 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 City License shall be surrendered to the City ABC Administrator.

(C) Except that the provisions of division (A) hereof shall not apply to any City Licensee who is unable to continue in business at the Premises for which a City 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 or private corporation under the power of eminent domain, whether acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Such City Licensee shall furnish to the City ABC Administrator a verified statement setting forth the fact that the City 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 City License continuing to remain in effect during the City 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 City 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 as provided for hereinabove except where the City Licensee is unable to continue in business at the same Premises licensed during the preceding City License paid 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 thirty (30) days from the expiration date of City License, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing of a renewal of such City License for a reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, such City 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 City License to a new location.

(E) PENALTY

(A) Any person who violates any of the provisions of this chapter shall, upon conviction thereof in a court of competent jurisdiction, be sentenced to pay a fine for each offense or violation of no more than \$500.

(B) Any person who violates the provisions of §§ 113.20 through 113.31 shall constitute a violation, punishable by a fine of up to \$500 for each offense: to be prosecuted as all other municipal ordinance violations are prosecuted. Each day of each violation shall constitute a separate offense.

(C) Any person who violates any provision of §§ 113.40 through 113.42, 113.44, or 113.45(A) shall, upon conviction and in accordance with KRS 243.990(1) and 244.990(1), be fined not less than \$100 nor more than \$200, or be imprisoned for no more than six (6) months, or both for the first offense. On the second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$500, or be imprisoned for no more than six (6) months, or both.

(D) Any person who violates any provision of § 113.43 shall, upon conviction and in accordance with KRS 244.990(5), be fined not less than \$10 nor more than \$100.

(E) Any person who violates any provision of § 113.45(B) shall, upon conviction and in accordance with KRS 244.990(5) and (6), be fined not less than \$10 nor more than \$100 for misrepresentation of age. For use of a false, fraudulent, or altered identification card, paper, or other document to purchase, attempt to purchase, or otherwise obtain any alcoholic beverage, the person shall be fined not less than \$50 nor more than \$500 for a first offense. For a second and each subsequent offense, the person

shall be fined not less than \$200 nor more than \$2,000.

Section 3. This Ordinance shall be effective upon its passage, approval and publication in full as required by law.

Introduced and First Reading: Regular Meeting, November 12, 2013

Second Reading and Enacted: Regular Meeting, December 10, 2013

Signed by Mayor: Dec 10, 2013

Published in full: Dec 17, 2013

**CITY OF FALMOUTH, KENTUCKY**

BY: Mark Hart  
Mark Hart, Mayor

**ATTEST:**

Terry England  
Terry England, City Clerk

**CITY OF FALMOUTH**  
**ORDINANCE NO. 2007- 110.10**

AN ORDINANCE ENACTING A NEW SECTION OF CHAPTER 113 OF THE CODE OF ORDINANCES RELATING TO THE SALE OF ALCOHOLIC BEVERAGES TO ESTABLISH A REGULATORY LICENSE FEE OF 2% OF THE GROSS SALES OF ALCOHOLIC BEVERAGES, INCLUDING DISTILLED SPIRITS, WINE, AND MALT BEVERAGES, WITHIN THE CITY OF FALMOUTH.

BE IT ORDAINED BY THE CITY OF FALMOUTH:

Section 1. That pursuant to the provisions of KRS 243.075 that a new section of Chapter 113 of the Code of Ordinances relating to the sale of alcoholic beverages including distilled spirits, wine, and malt beverages, within the City of Falmouth be and hereby is enacted to read as follows:

**Regulatory License Fees**

- A) A regulatory license fee is imposed on the gross receipts of the sale of alcoholic beverages, to include distilled spirits, wine, and malt beverages, of each license issued under this chapter. The license fee for the effective date July 1, 2007 shall be two (2%) percent. Thereafter the City Council shall annually adopt at the budget adoption of each fiscal year such percentage rates as shall be reasonably estimated to ensure full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expenses, relating to the sale of alcoholic beverages. Such fees shall be an 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 by this Chapter and such regulatory fee shall be applied annually.
- B) Payment of such fees shall accompany the tax returns approved for such use by the City and shall be submitted to the City Alcoholic Beverage Control Administrator by the 20<sup>th</sup> day of

each month for the preceding months sales, one twelfth of the annual license fee required under this Chapter shall be deducted each month as a credit.

- C) Failure to pay such monthly remittance within ten (10) days of the due date constitutes a violation and subject licensee to suspension or revocation of said license by the City Alcoholic Beverage Administrator.
- D) Penalty for failure to file a return and pay monthly remittance by the due date is twenty (20%) percent of the tax for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five (25%) percent of the tax provided, however, in no case shall the penalty be less than twenty (20%) percent.
- E) Interest on unpaid tax shall be calculated at the rate of one half (1/2) of one (1%) percent against the total amount of tax overdue at any time.

Section 2. That this Ordinance shall be effective July 1, 2007, upon its passage, approval, and publication in full as required by law.

Introduced and First Reading: Regular Meeting, June 21, 2007

Second Reading and Enacted: July 19, 2007

Signed by Mayor: July 20, 2007

Recorded by Clerk: July 20, 2007

Published in Full: July 31, 2007

**CITY OF FALMOUTH, KENTUCKY**

BY: April K. DeFalco  
April K. DeFalco, Mayor

**ATTEST:**

Terry England  
Terry England, City Clerk

**CITY OF FALMOUTH, KENTUCKY  
ORDINANCE NO. 2007-110.09**

**AN ORDINANCE TO ESTABLISH UNIFORM REGULATIONS  
AND REQUIREMENTS FOR THE LICENSING AND  
REGULATION OF THE SALE OF ALCOHOLIC BEVERAGES BY  
THE DRINK.**

**WHEREAS**, the City Council of the City of Falmouth desires to provide for uniform regulations and requirements for the licensing and regulation of the sale of alcoholic beverages by the drink and consumption on the premises;

**WHEREAS**, the City of Falmouth, by and through its elected City Council, has caused to be held a Public Forum to receive the sense of the community concerning this subject matter, and has considered a marketing analysis styled "Determining the Feasibility of Expanding the Economy of Pendleton County, Kentucky," prepared for the Pendleton County community by the Pendleton County Community Development Office in collaboration with the Pendleton County Chamber of Commerce and the Pendleton County Industrial Development Authority, Inc., dated January 10, 2005, a copy of which is attached hereto and incorporated herein by reference; and

**WHEREAS**, at such public forum, and in other public meetings of the Falmouth City Council, has received and considered the comments of citizens of the City of Falmouth, as well as citizens of Pendleton County who are not residents of the City of Falmouth; and

**WHEREAS**, based on the foregoing, the Falmouth City Council has determined that an economic hardship exists within the City and that the sale of alcoholic beverages by the drink for consumption on the premises could aid economic growth and development and tourism within the City by making provision for the sale of alcoholic beverages by the drink at certain restaurants, dining facilities, hotels, motels, or inns;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF FALMOUTH:**

**SECTION 1  
Purpose**

It is the purpose of this Ordinance to promote economic growth, development, and tourism within the City of Falmouth by making provisions for the sale of alcoholic beverages by the drink at certain restaurants, dining facilities, hotels, motels, and inns consistent with the provisions of KRS 242.185 now in effect and as may be hereafter amended by the Kentucky General Assembly.

**SECTION 2**  
**General Provisions**

The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapters 241, 242, 243, and 244 pertaining to licensing and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted, except as otherwise lawfully provided herein.

**SECTION 3**  
**City Alcoholic Beverage Control Administrator**

- (A) The City Alcoholic Beverage Control Administrator (“City ABC Administrator”) is authorized to examine and inspect, at any reasonable time, all books and records required to be maintained by licensees under KRS 244.150. The licensee shall submit to the City ABC Administrator a copy of all reports which the licensee is required or elects to submit to or file with the State Alcoholic Beverage Control Board.
- (B) The City ABC Administrator shall have the power and duty to suspend or revoke for cause a license granted for the purpose of KRS 242.185. The City ABC Administrator, on his/her own initiative or on complaint of any person, may institute proceedings to suspend or revoke any license issued under this Ordinance.

**SECTION 4**  
**License**

Under this section a license shall only be extended to the owners and or operators of those establishments which qualify under KRS 242.185.

- (A) Restaurants or dining facilities shall be eligible for the license for which provision is made herein if they comply with all of the following requirements:
  - (1) Such restaurants or dining facilities shall by records sufficient to establish to the City ABC Administrator that it derives a minimum of fifty one (51%) percent of its gross revenues from the sale of food for consumption on the premises and has a minimum seating capacity of one hundred (100) persons at tables. The City ABC Administrator shall review all records which the applicant restaurant or dining facility must submit as a part of its application for a license, and the City ABC Administrator shall determine if said restaurant or dining facility meets the criteria contained herein.

- (2) Payment of the license fee in the amount of six hundred (\$600.00) dollars.
- (B) Hotels, motels, or inns shall be eligible for the license for which provision is made herein if they comply with all of the following requirements:
  - (1) Such hotel, motel, or inn must demonstrate to the City ABC Administrator that it contains not less than fifty (50) sleeping units and has dining facilities for not less than one hundred (100) at tables. The City ABC Administrator shall personally inspect the premises and thereafter determine that in fact the applicant hotel, motel, or inn has the requisite number of sleeping units and dining facilities.
  - (2) Payment of the license fee in the amount of six hundred (\$600.00) dollars.
- (C) Nothing contained herein shall be in any way interpreted or construed to allow for the sale of alcoholic beverages by the drink for consumption on the premises in connection with any business in which a part of the commercial transaction consists of selling, at retail, staple groceries, or which is used solely as an entertainment facility and does not meet the criteria of a restaurant or dining facility set out hereinabove.

**SECTION 5**  
**License Application**

- (A) Representatives of restaurants, dining facilities, hotels, motels, or inns seeking the license for which provision is made herein shall submit a completed application to the City ABC Administrator. The form provided may be the same form utilized by the State Alcoholic Beverage Control Board.
- (B) The applicant for a city license for which provision is made herein shall tender with its application a consent document which shall state: "The undersigned applicant hereby grants its irrevocable consent to the City ABC Administrator, or his duly appointed designee, to come upon and inspect and search the licensed premises at any reasonable time."

**SECTION 6**  
**Approval of Application**

Within thirty (30) days of the date of the application for an original city license for which provision is made herein and fifteen (15) days of the date of any application for renewal of such license, the City ABC Administrator shall, by mail or personal delivery, notify the applicant, in writing, of either the approval or the disapproval thereof or whether a hearing in regard thereto shall be held.

**SECTION 7**  
**Denial of Application**

As is similarly set forth in KRS 243.450, the City ABC Administrator shall not approve any application for a city license for which provision is made herein if:

- (A) The applicant, the application or the premises described therein do not fully comply with the provisions of this ordinance and all laws in regard to alcoholic beverages.
- (B) The applicant and/or any shareholder, officer, agent, servant, or employee has caused, permitted, or engaged in any act for which the revocation or non-issuance of a state or city license is authorized, including, but not limited to, those acts as are defined in KRS 243.100, 243.450, 243.500, or 244.120.
- (C) The applicant and/or any shareholder, officer, agent, servant, or employee had a state license or city license which was revoked within two (2) years of the date of application, where the premises or any portion thereof described in a state license or city license was revoked during such time.
- (D) Any statement or representation in the application is false.

**SECTION 8**  
**Hearings**

Should a request for a hearing be made for the refusal to issue or renew a license or for the suspension or revocation of a license, the City ABC Administrator is to hold said hearing consistent with KRS Chapter 13B and pursuant to the general practice procedures found in the Kentucky Rules of Civil Procedure and the following shall apply:

- (A) Definitions. All words are used as defined in the alcoholic beverage control law of Kentucky (KRS Chapters 241, 242, 243, and 244), unless otherwise specified.
- (B) Appearances. Any applicant or licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the City ABC Administrator.
- (C) Briefs. Briefs may be filed at the request of the City ABC Administrator, or at the option of the applicant or licensee.

- (D) Rules of Evidence. The rules of evidence governing civil proceedings in courts of the Commonwealth of Kentucky shall govern hearings before the City ABC Administrator; provided, however, that the hearing officer may relax such rules in any case where, in his judgment, the ends of justice will be better served by so doing.
- (E) Subpoenas. The City ABC Administrator shall have subpoena power for such hearings and shall at the request of the applicant made with names and addresses of those desired issue with subpoenas.
- (F) Transcripts. Upon request and at the costs of the applicant or licensee the hearing may be transcribed.
- (G) Decisions. All decisions shall be written and based upon evidence developed at the hearing.

#### **SECTION 9**

#### **Expiration Date of License; Renewal**

- (A) A license issued pursuant to this ordinance shall expire on June 30 of the year following the year in which the license was issued. Application for renewal of such license shall be submitted no later than thirty (30) days before expiration thereof and shall be made pursuant to Section 6 upon a showing and criteria therefore has been met, the filing and approval of a renewal application, and the payment of a renewal fee of Six Hundred (\$600.00) Dollars.
- (B) The renewal of the license issued pursuant to this ordinance 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.
- (C) No license issued under this ordinance shall be transferred or assigned either as to license or location except with the prior approval of the City ABC Administrator and not then until a payment of One Hundred (\$100.00) Dollars shall be made to the City.

#### **SECTION 10**

#### **Additional Restrictions on Sale by Licensee**

At no time shall any licensee sell any alcoholic beverage when the licensee does not have food available for sale, and in no event may any alcoholic beverage be sold between the hours of 12:30 a.m. and 6:00 a.m., Monday through Saturday, nor on Sunday, nor on election day when the polls are open.

**SECTION 11**  
**Dormancy**

- (A) It is necessary that a licensee actually conduct the business authorized by the license for which provision is made herein 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 any other business, may have his/her business interrupted by situations not under his/her 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 (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 or private corporation under the power of eminent domain, whether 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 as provided for in Section 9 hereinabove except where the licensee is unable to continue in business at the same premises licensed during the preceding license paid 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 thirty (30) days from the expiration date of license, setting forth these

facts, and the City ABC Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

**SECTION 12**  
**Regulatory License Fees**

- A) A regulatory license fee is imposed on the gross receipts of the sale of alcoholic beverages by the drink of each license issued under this chapter. The license fee for the effective date July 1, 2007 shall be two (2%) percent. Thereafter the City Council shall annually adopt at the budget adoption of each fiscal year such percentage rates as shall be reasonably estimated to ensure full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expenses, relating to the sale of alcoholic beverages. Such fees shall be an 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 by this Chapter and such regulatory fee shall be applied annually.
- B) Payment of such fees shall accompany the tax returns approved for such use by the City and shall be submitted to the City Alcoholic Beverage Control Administrator by the 20<sup>th</sup> day of each month for the preceding months sales, one twelfth of the annual license fee required under this Chapter shall be deducted each month as a credit.
- C) Failure to pay such monthly remittance within ten (10) days of the due date constitutes a violation and subject licensee to suspension or revocation of said license by the City Alcoholic Beverage Administrator.
- D) Penalty for failure to file a return and pay monthly remittance by the due date is twenty (20%) percent of the tax for each thirty (30) days or fraction thereof. The total late filing penalty shall not exceed twenty-five (25%) percent of the tax provided, however, in no case shall the penalty be less than twenty (20%) percent.
- E) Interest on unpaid tax shall be calculated at the rate of one half (1/2) of one (1%) percent against the total amount of tax overdue at any time.

**SECTION 13**  
**Penalty**

The sale of alcoholic beverage by the drink for consumption on the premises within the City not in conformity with this ordinance shall constitute a violation, punishable by a fine of up to Five Hundred Dollars (\$500) for each offense; to be prosecuted as all other municipal ordinance violations are prosecuted. Each day of each violation shall constitute a separate offense.

**SECTION 14**  
**Severability**

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

**SECTION 15**  
**Effective Date**

This ordinance shall be in full force and effect on July 1, 2007, from and after its passage, approval, attestation, and publication in full as required by law.

Introduced and First Reading: Special Meeting, April 25, 2007

Second Reading and Enacted: Regular Meeting, May 17, 2007

Signed by Mayor: Mayor April DeFalco June 5, 2007

Recorded by Clerk: June 5, 2007

Published in Full: June 26, 2007

**CITY OF FALMOUTH, KENTUCKY**

BY: April K. DeFalco Mayor  
April K. DeFalco, Mayor

**ATTEST:**

Terry England  
Terry England/City Clerk

RECEIVED  
2008 OCT 16 A 9:57  
ALCOHOLIC  
BEVERAGE CONTROL

City of Falmouth, Kentucky  
Resolution No. 6-21-2-07

A RESOLUTION TO ACCEPT 2006-07 RENAISSANCE ON MAIN FUNDS FROM THE GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT, AND AUTHORIZATION OF MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY BETWEEN THE CITY AND THE GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT.

WHEREAS, the City of Falmouth has applied for and received an allocation of 2006-07 Renaissance on Main Funds; and

WHEREAS, the City of Falmouth in partnership with the local Renaissance/Main Street Committee has coordinated this joint effort and agreed upon the terms and conditions of the Funding Agreement with the Governor's Office for Local Development;

NOW, THEREFORE, BE IT RESOLVED that the City of Falmouth does hereby accept the 2006-07 Renaissance on Main Funds in the amount of \$ 116,125.10 and does hereby agree to be bound to all applicable rules and requirements governing its dispersal. Further, the Mayor is hereby authorized and directed to execute all documents necessary with the Governor's Office for Local Development relative to the receipt of the aforementioned Renaissance on Main funds.

Accepted this 21<sup>st</sup> day of June, 2007

April K. DeFalso  
Mayor

ATTEST:

Lenny England  
City Clerk

RECEIVED  
2008 OCT 16 A 9:57  
ALCOHOLIC  
BEVERAGE CONTROL

**CITY OF FALMOUTH  
ORDINANCE NO 110.08**

AN ORDINANCE AMENDING SECTION 113.40 OF THE CODE OF ORDINANCES CHANGING THE HOURS OF OPERATION OF ESTABLISHMENTS SELLING DISTILLED SPIRITS, WINE, AND MALT BEVERAGES, AT RETAIL, FROM 6:00 A.M. TO 2:30 A.M., PREVAILING TIME, ON ANY DAY EXCEPT SUNDAY, AND AFTER 1:00 P.M. AND BEFORE 2:30 A.M., PREVAILING TIME, ON ANY SUNDAY, TO 6:00 A.M. TO 12:30 A.M., PREVAILING TIME, ON ANY DAY EXCEPT SUNDAY, AND AFTER 1:00 P.M. AND BEFORE 10:00 P.M., PREVAILING TIME, ON ANY SUNDAY.

Be it ordained by the City of Falmouth, Kentucky:

**Section 1.** That Section 113.40 of the Code of Ordinances be and hereby is amended and reenacted to read as follows:

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, the times and hours during which distilled spirits, wine, and malt beverages may be sold at retail in the city are hereby established to be the hours after 6:00 a.m. and before ~~2:30~~ 12:30 a.m. prevailing time on any day except Sunday, and the hours after 1:00 p.m. and before ~~2:30 a.m.~~ 10:00 p.m. prevailing time on any Sunday, as further set out in this section. However, no distilled spirits or wine or malt beverages shall be sold at retail in the city during the hours the polls are open in the city on any election day.

(B) During the hours before 6:00 a.m. and after ~~2:30~~ 12:30 a.m. prevailing time on any day except Sunday, and the hours after ~~2:30~~ 12:30 a.m. and before 1:00 p.m. and after 10:00 p.m. prevailing time on any Sunday, as further set out in this section. and the hours when any polls are open in the city on any election day, no person who has a valid city license for the sale of distilled spirits or wine or malt beverages at retail shall cause, permit, or engage in any of the actions, business, or transactions authorized and permitted thereby. During such times, all persons who have such city licenses shall cause the licensed premises to be closed and vacated by all persons except city licenses or any supplements thereto as officers, agents, or employees of the person to whom such city license was issued. All other persons shall vacate the licensed premises and remove themselves therefrom during such times; however, any person upon the premises who purchased any alcoholic beverages by the drink from the licensee within 30 minutes prior to any such times may remain upon the premises for a period not to

exceed 30 minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of such licensed premises is maintained in a manner previously approved in writing by the City Administrator as being capable of being locked, closed off, and separated from the remainder of the licensed premises and all distilled spirits, wine, and malt beverages and all fixtures and apparatus connected with the acts of business and transactions authorized by the state licenses and city licenses for the retail sale of distilled spirits, wine, and malt beverages from such premises are located within such approved department, and such approved department is continuously kept locked, physically separated, and closed off from the remainder of the licensed premises during such times, the remainder of the licensed premises may remain open and any lawful activity may be conducted thereon during such times.

(D) Sunday Sales:

i. The Sunday sales of alcoholic beverages as authorized in this section shall be limited to holders of licenses authorizing the package sale of liquor and wine only.

ii. The Sunday sales of malt beverages as authorized in this Section shall be limited to holders of malt beverage licenses who shall be authorized to sell malt beverages at retail only in package form, i.e., by the six pack, case, keg, bottle or can, etc., and the Sunday sales, authorized by this section shall not include any retail sale of malt beverages to be consumed upon the premises or the sale of individual draughts, twelve (12) ounce cans, or twelve (12) ounce bottles of malt beverages.

iii. It is the intent of the City of Falmouth to authorize Sunday sales of package liquor and wine, and package malt beverages only, and should any Court of competent jurisdiction, whether by finding a defense to a criminal or other administrative charge, or in any other final and appealable decision determine that the City of Falmouth is without authority to so limit Sunday sales to package liquor and wine and package malt beverages, then the provisions of this ordinance authorizing Sunday sales for package liquor and wine, and malt beverages, shall be null and void, and no Sunday sales of alcoholic beverages shall then be permitted within the city limits of Falmouth, Kentucky.

**Section 3.** That this Ordinance shall be effective upon its passage, approval, and publication in full as required by law.

Introduced and First Reading: Special Meeting, April 25, 2007

Second Reading and Enacted: Regular Meeting, May 17, 2007

Signed by Mayor: May 25, 2007

Recorded by Clerk: May 25, 2007

Published in Full: June 5-2007 & June 12-2007

**CITY OF FALMOUTH, KENTUCKY**

BY: April K. DeFalco  
April K. DeFalco, Mayor

**ATTEST:**

Terry England  
Terry England, City Clerk

ALCOHOLIC  
BEVERAGE CONTROL

2008 OCT 16 A 9:51

RECEIVED

ORDINANCE NO. 112.01

AN ORDINANCE RELATING TO THE TIME WHEN RETAIL SALES OF MALT BEVERAGES, WINE AND PACKAGE LIQUOR ARE PERMITTED OR PROHIBITED AND DESIGNATING THOSE PERSONS WHO MAY AND MAY NOT BE PERMITTED ON THE PREMISES AFTER THE DESIGNATED CLOSING HOURS AND AMENDING ORDINANCE # 308A

BE IT ORDAINED by the City Council of Falmouth, Kentucky:

SECTION 1. That no holder of a retail malt beverage license or a temporary malt beverage license or any of his agents, servants or employees or any other person or persons having control of the premises shall sell, give away, dispense, deliver or furnish to any patron, customer or any other person during the twenty-four hours of a Sunday.

SECTION 2. That no holder of a retail package license or a Retail Special Package license or any of his agents, servants or employees or any other person or persons having control of the premises, shall sell, give away, dispense, deliver or furnish to any patron, customer or any other person distilled spirits and wine between midnight and 6:00 o'clock A. M., or at any time during the twenty-four hours of a Sunday.

SECTION 3. That no holder of any of the above mentioned licenses or any of his agents, servants or employees or any other person or persons having control of the premises, shall permit the premises to remain open for any purpose, nor shall any patron, customer or other person other than the licensee or an actual bona fide employee of such licensee actually then employed and actually then at work be permitted in or upon the licensed premises between 12:30 o'clock A. M., and 6:00 o'clock A. M., or at any time during the twenty-four hours of a Sunday unless the business located at said premises receives fifty percent (50%) or more of its gross annual income from the sale of products other than alcoholic beverages.

SECTION 4. That all times set forth in the foregoing sections of this Ordinance are the local times then and there recognized and existing in the City of Falmouth, Kentucky.

SECTION 5. That a violation of this Ordinance or any part thereof shall be deemed a misdemeanor and upon conviction therefor shall be punishable by a fine not to exceed \$500.00 or imprisonment not to exceed thirty (30 ) days or both, and the costs of Court for each offense, and each day upon which the provisions hereof are violated shall constitute a separate and distinct offense.

SECTION 6. That all Ordinance or parts of Ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 7. That this Ordinance shall be signed by the Mayor, attested by the City Clerk recorded and published. The same shall be in effect at the earliest time provided by law.

Ref: February 18, 1980  
# 322A

ORDINANCE NO. 322 A

AN ORDINANCE RELATING TO THE TIME WHEN RETAIL SALES OF MALT BEVERAGES, WINE AND PACKAGE LIQUOR ARE PERMITTED OR PROHIBITED AND DESIGNATING THOSE PERSONS WHO MAY AND MAY NOT BE PERMITTED ON THE PREMISES AFTER THE DESIGNATED CLOSING HOURS AND AMENDING ORDINANCE # 308A

BE IT ORDAINED by the City Council of Falmouth, Kentucky:

SECTION 1. That no holder of a retail malt beverage license or a temporary malt beverage license or any of his agents, servants or employees or any other person or persons having control of the premises shall sell, give away, dispense, deliver or furnish to any patron, customer or any other person during the twenty-four hours of a Sunday.

SECTION 2. That no holder of a retail package license or a Retail Special Package license or any of his agents, servants or employees or any other person or persons having control of the premises, shall sell, give away, dispense, deliver or furnish to any patron, customer or any other person distilled spirits and wine between midnight and 6:00 o'clock A. M., or at any time during the twenty-four hours of a Sunday.

SECTION 3. That no holder of any of the above mentioned licenses or any of his agents, servants or employees or any other person or persons having control of the premises, shall permit the premises to remain open for any purpose, nor shall any patron, customer or other person other than the licensee or an actual bona fide employee of such licensee actually then employed and actually then at work be permitted in or upon the licensed premises between 12:30 o'clock A. M., and 6:00 o'clock A. M., or at any time during the twenty-four hours of a Sunday unless the business located at said premises receives fifty percent (50%) or more of its gross annual income from the sale of products other than alcoholic beverages.

SECTION 4. That all times set forth in the foregoing sections of this Ordinance are the local times then and there recognized and existing in the City of Falmouth, Kentucky.

SECTION 5. That a violation of this Ordinance or any part thereof shall be deemed a misdemeanor and upon conviction therefor shall be punishable by a fine not to exceed \$500.00 or imprisonment not to exceed thirty (30) days or both, and the costs of Court for each offense, and each day upon which the provisions hereof are violated shall constitute a separate and distinct offense.

ORDINANCE NO. 323A

AN ORDINANCE ESTABLISHING FEES FOR ALCOHOLIC BEVERAGE LICENSE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FALMOUTH, KENTUCKY, as follows:

SECTION 1. That the retail package license for distilled spirits and wine shall be \$600.00 per year.

SECTION 2. That the retailer's malt beverage license shall be \$200.00 per year.

SECTION 3. That the Distributor's license for malt beverages shall be \$200.00 per year.

SECTION 4. That a Restaurant Wine License shall be \$100.00 per year.

SECTION 5. All licenses issued under this Ordinance shall expire on June 30 of each year. The renewal by the Administrator of the certificate or permit of any alcoholic beverage licensee shall not be construed to be a waiver or condonement of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee therefor.

SECTION 6. When any person applies for a license authorized to be issued under this Ordinance after July 1 of any year, he shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following July 1, except that no license shall be issued for a shorter period than one (1) month.

SECTION 7. If any section of this Ordinance be held invalid, then it and all other sections shall be severable, and the validity of the remaining section or sections shall not be effected thereby;

All ordinances or parts of ordinances in conflict with this Ordinance are to the extent of such conflict hereby repealed.

ORDAINED BY THE CITY COUNCIL OF THE CITY OF FALMOUTH, KENTUCKY, this 18th day of February, 1980.

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MAX GOLDBERG, MAYOR

ATTEST:

*H. S. Ammerman*  
HARVEY AMMERMAN

ORDINANCE NO. 308-A

AN ORDINANCE RELATING TO THE TIME WHEN RETAIL SALES OF MALT BEVERAGES, WINE AND PACKAGE LIQUOR ARE PERMITTED OR PROHIBITED AND DESIGNATING THOSE PERSONS WHO MAY AND MAY NOT BE PERMITTED ON THE PREMISES AFTER THE DESIGNATED CLOSING HOURS

BE IT ORDAINED by the City Council of Falmouth, Kentucky:

SECTION 1. That no holder of a retail malt beverage license or a temporary malt beverage license or any of his agents, servants or employees or any other person or persons having control of the premises shall sell, give away, dispense, deliver or furnish to any patron, customer or any other person any malt beverage between midnight and 6:00 o'clock A. M., or at any time during the twenty-four hours of a Sunday.

SECTION 2. That no holder of a retail package license or a Retail Special Package license or any of his agents, servants or employees or any other person or persons having control of the premises, shall sell, give away, dispense, deliver or furnish to any patron, customer or any other person distilled spirits and wine between midnight and 6:00 o'clock A. M., or at any time during the twenty-four hours of a Sunday.

SECTION 3. That no holder of any of the above mentioned licenses or any of his agents, servants or employees or any other person or persons having control of the premises, shall permit the premises to remain open for any purpose, nor shall any patron, customer or other person other than the licensee or an actual bona fide employee of such licensee actually then employed and actually then at work be permitted in or upon the licensed premises between 12:30 o'clock A. M., and 6:00 o'clock A. M., or at any time during the twenty-four hours of a Sunday.

SECTION 4. That all times set forth in the foregoing sections of this Ordinance are the local times then and there recognized and existing in the City of Falmouth, Kentucky.

SECTION 5. That a violation of this Ordinance or any part thereof shall be deemed a misdemeanor and upon conviction therefor shall be punishable by a fine not to exceed \$500.00 or imprisonment not to exceed thirty (30) days or both, and the costs of Court for each offense, and each day upon which the provisions hereof are violated shall constitute a separate and distinct offense.

SECTION 6. That all Ordinance or parts of Ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 7. That this Ordinance shall be signed by the Mayor, attested by the City Clerk recorded and published. The same shall be in effect at the earliest time provided by law.

PASSED on the 8th day of March, 1977.

*Max Goldberg*

MAX GOLDBERG, MAYOR

ATTEST:

*Chas. E. Ashcraft*

CHAS. E. ASHCRAFT, CITY CLERK

ORDINANCE NO. 305-A

ORDINANCE CREATING THE OFFICE OF CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR FOR THE CITY OF FALMOUTH, KENTUCKY, AND ESTABLISHING FEES FOR LICENSES.

AS ORDAINED BY THE CITY COUNCIL OF THE CITY OF FALMOUTH, KENTUCKY, it is hereby allowed as follows:

- SECTION 1. That the office of City Alcoholic Beverage Control Administrator for the City of Falmouth, Kentucky, is hereby established.
- SECTION 2. That the retail package license for distilled spirits and wine shall be \$100.00 per year.
- SECTION 3. That the retailer's malt beverage license shall be \$200.00 per year.
- SECTION 4. That the Distributor's license for malt beverages shall be \$200.00 per year.
- SECTION 5. All licenses issued under this Ordinance shall expire on June 30 of each year. The renewal by the Administrator of the certificate or permit of any alcoholic beverage licensee shall not be construed to be a waiver or condonement of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee therefor.
- SECTION 6. When any person applies for a license authorized to be issued under this Ordinance after July 1 of any year, he shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following July 1, except that no license shall be issued for a shorter period than one (1) month.

SECTION 7. If any section of this Ordinance be held invalid, then it and all other sections shall be severable, and the validity of the remaining section or sections shall not be affected thereby;

Ordinances or parts of ordinances in conflict with this Ordinance are to the extent of such conflict hereby repealed.

AS ORDAINED BY THE CITY COUNCIL OF THE CITY OF FALMOUTH, KENTUCKY, this 9<sup>th</sup> day of March, 1976.

TEST:

Charles E. Ashcraft  
CHARLES E. ASHCRAFT, CLERK

Max Goldberg  
MAX GOLDBERG, MAYOR