

ORDINANCE 13-18 (SUMMARY)
A SUMMARY ORDINANCE OF THE CITY OF MT. WASHINGTON, BULLITT
COUNTY, KENTUCKY AMENDING MT. WASHINGTON CODE OF
ORDINANCES CHAPTER 117

This Ordinance amends by striking and interlineation of the City of Mt Washington's Alcoholic Beverage Licenses Ordinance No. 03-13 to comply with the modifications that were amended by the Kentucky Revised Statutes to simplify, and correct inconsistencies therein;

The Statutes authorize city license structure for alcohol beverage license and the city license structure includes terms taken from, and citations, to Kentucky Revised Statutes; and

These changes do not include changes in the city policy or philosophy relief to the sale of alcoholic beverages.

The complete text of the Ordinance is of Record in the Office of the City Clerk and becomes effective upon publication of this summary.

The following sections impose fees and are published in their entirety pursuant to KRS 83A.060:

§ 117.32 LICENSE FEE SCHEDULE.

Regulatory License Fee

1. Pursuant to KRS 243.075...

(A)—The licenses authorized under this subchapter shall be divided into the following categories and the applicant shall, at the time of his or her application, pay to the city the appropriate fee for each license applied for:

(1) ~~Distilled spirits, wine and retail package license~~ Quota Retail Package License: six hundred dollars (\$600.00) per year. Retail package sale of distilled spirits and wine in sealed containers, but not for consumption on the licensed premises.

(2) ~~Retail malt beverage NQ Retail Malt Beverage Package license~~: Retail package sales only for consumption off premises.

(a) New applicants: two hundred dollars (\$200.00) per year.
Applicants for renewal: one hundred-fifty dollars (\$150.00) per year.

(3) NQ-4 Retail Malt Beverage Drink License: Permits malt beverage drink sales only on premises.

(3) Restaurant wine license. Retail sale of wine for consumption on the licensed premises of a bona fide restaurant where distilled spirits for consumption on the premises in not available, or a license has not been issued.

(4) Retail Drink License: a license permitting the sale of distilled spirits, wine, and malt beverages by the drink. At qualifying restaurants, motels, airports and riverboats.

(a) New applicants: six hundred dollars (\$600.00) per year.

(b) Applicants for renewal: four hundred dollars (\$600) per year.

Limited retail restaurant, motel, or inn drink license (5) six hundred dollars (\$600.00) per year. Retail sale of distilled spirits and wine by the drink for consumption on the licensed premises.

(B) No license shall be issued hereunder until the same has been approved as required by law and by the State Alcoholic Beverage Control Board and by the MWABC. Licenses which have been approved according to law, and which are not prohibited by this chapter, shall then be issued by the City Clerk.

(C) Persons desiring to obtain a license hereunder for only part of a license year shall pay a prorated fee equal to as many twelfths of the annual license fee as there are calendar months remaining in the license year, including the month in which the license is granted. In no event shall the prorated license fee be less than one-half (1/2) the full annual license fee.

(D) Any license issued to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(E) All licenses shall expire on June 30 of each year.

(F) This section shall not be construed to limit the city's authority under KRS ~~242.185(4)~~243.072 and §§ 117.33 and 117.34 of this chapter, or any other provision of law, to issue licenses permitted by KRS 243.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 05-06, passed 3-14-05)

§ 117.33 NQ 1 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 seventy percent (70%) or more of its gross annual income of the sale of food and has a minimum seating capacity of one hundred (100) persons at permanent tables.

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

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.34 CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE.

(A) The City Council, pursuant to KRS ~~242.185~~ 243.072, has determined that economic hardship exists within the city, as is evidenced by lack of hotels, motels and inns; slow rate of growth; and a lack of commercial and industrial development. The City Council has further determined that the licensing authorization contained in subsections "B" and "C" of this section could aid economic growth. Further, the City Council adopts this chapter, i.e. the "Alcoholic Beverage Control Ordinance of the city," as a comprehensive, regulatory ordinance covering, inter alia, the licensing and operation of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(B) The city shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages if a malt beverage license is obtained. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one

hundred (100) persons at permanent tables which derive at least seventy percent (70%) of their gross revenue from the sale of food, or bona fide restaurants open to the general public having permanent dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least seventy percent (70%) of their gross revenue from the sale of food; this requirement is and shall be in accord with KRS ~~242.1295~~ 243.083. The fee for such a license shall be six hundred dollars (\$600.00) per annum.

(C) In accordance with KRS ~~242.185(4)~~, 243.072 the MWABC is authorized to issue any license permitted by KRS 243.070, and the activity thereby licensed is permitted in according with state law and city law.

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

(E) All regulations which may be issued to administer KRS ~~242.185~~ 243.072, this section of this chapter, and any other provision of this chapter or State law, shall conform to the requirements of KRS 241.190.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.35 SPECIAL SUNDAY SALE LICENSES.

This chapter shall not be construed to authorize city special Sunday sale retail drink licenses.

(A) (1) Other provisions of this chapter notwithstanding, Sunday sale of alcoholic beverages shall be permitted if compliance to this section is strictly met.

(2) Only a holder of a valid by the drink license may apply for a Sunday by the drink license.

(3) The fee for such special Sunday sale license shall be \$300 which shall not be pro-rated upon initial issuance, thereafter renewals shall be at the same times and in the same manner as the holders of retail by the drink licenses.

(4) The hours permitted for sale under this special Sunday license shall be on all Sundays beginning at 1:00 p.m. local time and continuing until the closing times set forth elsewhere in this chapter.

(5) Only those alcoholic beverages permitted to be sold by the drink by the regular by the drink licenses held by the holder thereof are permitted under this license.

(6) Only those premises licensed under the regular by the drink license held by the holder thereof shall be permitted premises under this license.

(7) All other provisions of this chapter not in conflict herewith, such as the requirement of food sales, etc. shall apply.

(B) (1) Other provisions of this chapter notwithstanding, Sunday sale of malt beverages shall be permitted if compliance to this section is strictly met.

(2) Only a holder of a valid malt beverage license who does not engage in package sales may apply for a Sunday by the drink license.

~~—(3) The fee for such special Sunday sale malt beverage license shall be \$100 which shall not be pro-rated upon initial issuance, thereafter renewals shall be at the same times and in the same manner as the holder's malt beverage licenses.~~

(4) The hours permitted for sale under this special Sunday ~~malt beverage license~~ section shall be on all Sundays beginning at 1:00 p.m. local time and continuing until the closing times set forth elsewhere in this chapter.

(5) Only those premises which hold a malt beverage a NQ-4 retail license who are not engaged in the package sale of malt beverages and who regularly provide on site prepared food services are permitted. ~~under this license.~~

(6) All other provisions of this chapter not in conflict herewith shall apply.
(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 11-02, passed 5-9-11)

§ 117.36 LICENSE TERM: RENEWAL.

Applications for renewal of licenses required by this chapter shall be made for each license year, which, in order to coincide with the state license year, shall begin the first day of February and extend through the last day of January of the succeeding year. Applications for renewal are to be filed with the MWABC no less than fifteen (15) or more than forty five (45) days prior to expiration.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 08-11, passed 5-12-08)

§ 117.37 PRO-RATION; REFUNDS PROHIBITED.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.38 ASSIGNMENT, TRANSFER, CONTINUANCE, LICENSE REPLACEMENT.

(A) Any license issued to any person, corporation, partnership or other entity for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(B) When a license has been lost or destroyed, the MWABC may issue a duplicate or replacement license upon payment of a fee of fifty dollars (\$50.00).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.39 LOCATION RESTRICTED.

(A) Licenses under this chapter shall not authorize the conduct of business in any place other than that specifically described in the original State application and license.

(B) No retail distilled spirits and wine package license shall be granted for a premises which is located within seven hundred (700) feet of any other premises licensed for retail distilled spirits and wine package sales. The distance stated herein shall be measured in accordance with KRS 241.075(3).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.40 APPLICATION, CONTENTS, EMERGENCY ACTION.

(A) Applications for licenses shall be made to the MWABC, in writing signed by the applicant, if an individual, or by a duly authorized agent thereof, if a corporation. Such applications shall be made on forms supplied by the City Clerk and no license shall be issued until completed in full and the appropriate fee therefore has been paid. A written application must be made with the truth of the information, statements, and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of such application shall be prescribed by the regulation of the MWABC; however, provision for the following information, statements, and representations shall and must be included therein;

(1) All information required by KRS 243.380 and 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the inspection of the licensed premises, by the MWABC in addition to their consent that the MWABC may inspect and search the licensed premises at any reasonable time, review financial records and books of the business without notice, confiscate articles found on the premises in violation of any ordinance, statute, or regulation, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder, without first obtaining a search warrant. Additionally, the MWABC may confiscate any contraband property or items. The temporary closure shall remain in effect until review of the alleged violations by the MWABC, which review shall occur within thirty-six (36) hours (weekends and holidays excluded) of the imposition of the temporary closure.

(3) Documentary evidence of an application for state license, which corresponds to the city license for which the application is being made which shall include a copy of the state issued license shall also accompany the application.

(4) Original applications for any alcoholic beverage license must be accompanied by a copy of notice of the applicant's intention to make application, published once before such application is filed, in the regular edition of the official newspaper of the city, which shall be, "The Pioneer News".

(5) A copy of the applicant's deed, or lease, for the property.

(6) If the applicant is a corporation, a copy of the Articles of Incorporation and a list (including name, address and telephone number) of all stockholders who own more than 40% of the corporate stock. Said list of stockholders must be amended at any time a change occurs which allows a person to hold more than 40% of the corporate stock.

(7) If the applicant is a limited liability company the application must include the name, address, and telephone number of all members of the LLC which list shall be amended upon any change in ownership.

(8) If the applicant is a partnership the application shall include a copy of the partnership agreement. Any changes in the partnership agreement shall be submitted to the City Clerk upon said change.

(B) All applicants, all officers of any applicant corporation, all persons holding forty (40%) percent or more of the stock in an applicant corporation or owners or partners of an applicant partnership or LLC shall each submit to a background check to be conducted by the city ABC Officer. All applicants, officers of any applicant corporation, and persons holding more than forty (40%) percent of the corporate stock shall provide such information as may be required by the city ABC Officer to complete the background check. That background check may include, if deemed necessary by the city ABC Officer, a requirement of fingerprints and a current color photograph of themselves with all other documents as required in the application process or during any subsequent renewal if not previously provided or otherwise deemed necessary by the MWABC. (Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.41 APPROVAL OR DENIAL OF APPLICATION.

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

(1) The applicant has complied with all requirements of the State Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter;

(2) The location is one that can be approved, including but not limited to the requirements of KRS 243.220 and this chapter;

(3) A license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and

(4) There are no other causes for denial of the license.

(B) If the MWABC has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the MWABC may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The MWABC shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the Administrator. Any decision by the Administrator on the application shall be subject to appeal as provided by law.

(C) No license provided for in this chapter shall be issued if there is cause for refusal as specified in KRS 243.450, and the MWABC shall not approve any application for a city license if:

(1) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(2) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted, or engaged in any act for which the revocation of a state or city license is authorized;

(3) The applicant and/or any shareholder, officer, agent, servant, or employee thereof had a state license or city license which was revoked within two (2) years of date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during such time;

(4) The applicant, his agent, or manager has been convicted of a felony.

(5) An applicant who at the time of application for renewal of any license issues hereunder would not be eligible for such license upon a first application.

(6) A partnership unless all the members of the partnership shall be qualified to obtain such a license and whose partnership agreement, along with all subsequent modifications, has been recorded in the County Clerk's Office. A copy of the partnership agreement, and all modifications, shall accompany the application.

(7) An applicant premise is located in an area of the city not zoned for commercial use under the zoning laws of the city. This section shall not preclude the issuance of a license on premises for which a proper zoning change has been granted by the City Council.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.42 PAYMENT OF FEES.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.43 POSTING OF LICENSES; PUBLIC RECORD.

Each city license shall be in substantially the same form prescribed by KRS 243.440 for State licenses, and shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate or facsimile of each city license shall remain in the MWABC's office as part of the public record.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.44 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL.

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

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

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

(D) Applications for renewal of licenses and payment of the license fee must be on file with the MWABC at least fifteen (15) days, but not more than forty-five (45) days, before the expiration of the licenses for the preceding license period, or the license shall be cancelled. However, the licensee may file a written, verified statement at least fifteen (15) days prior to the expiration date of the license, setting forth facts justifying an extension. The MWABC may then extend the time for filing an application for renewal of the license for a reasonable length of time within the exercise of his or her sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.45 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE AND FOR SUSPENSION OR REVOCATION OF LICENSE.

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

(B) No license to sell alcoholic beverages shall be granted or renewed to any person or other entity delinquent in the payment of any taxes or fees due the city at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee, upon which there are any delinquent

such licensed premise shall maintain a file at the licensed premise containing the name, date of employment, and proof of certification of each server regulated by this section. This information shall be made available at any reasonable time to the MWABC or any police officer.

(7) Each restaurant licensee shall file with the City Clerk and the city's Alcoholic Beverage Control Administrator every six(6) months a report setting out the total gross receipts from the sale of food and the total gross receipts from the sale of alcoholic beverages. The report shall be notarized and sworn to by the person filing the report. In addition, the licensee agrees to provide tax returns, receipt, or any other business record which the MWABC may request in order to verify the information contained in the report.

(8) No license for the sale of alcoholic beverages at retail shall be used for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period. A copy of the applicant's deed, or lease, documenting ownership or lease shall be submitted with the application.

(9) No city license for the sale of alcoholic beverages at retail shall be issued for any premises which are prohibited licenses under any of the provisions of state law.

(10) A license that might be issued shall be refused for the same causes set forth in state law for the refusal of state licenses.

(11) Licenses may be revoked or suspended for the same causes set forth in state law for the suspension or revocation of state license.

(12) No licensee hereunder shall sell any intoxicant or alcoholic beverages behind blinds or screen, but such sales shall be conducted openly and without any attempt to hide it or screen it from the public view.

(13) A licensee which holds ~~a restaurant-wine license or limited~~ any retail drink license for hotels, motels, inns and restaurants may not hold for the same premises a ~~distilled spirits and wine~~ any retail package license.

(14) No gaming device of any kind shall be permitted upon any licensed premises, nor shall any gambling of any kind be permitted upon such licensed premises.

(15) No live entertainment shall be permitted upon any licensed premises which has more than six (6) members who comprise the act, show, or production. No live entertainment shall be permitted past the hour of 12:00 a.m.(midnight).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 05-27, passed 8-22-05; Am. Ord. 07-24, passed 12-10-07)

SALE OF ALCOHOLIC BEVERAGES

§ 117.55 LICENSE REQUIRED FOR SALE.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.56 HOURS OF SALE.

(A) Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted shall be permitted to remain

open during the hours of 6:00 a.m. to 12:00 a.m. (midnight), but shall remain closed during the twenty-four (24) hours of Sunday, Christmas Day, ~~and at any time when the election polls are open in the precinct in which the licensee's business is located.~~ However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked and placarded during the aforesaid time the licensee is not permitted to sell alcoholic beverages, the licensee shall be deemed to have complied with this section. Placarded shall indicate that the sale of such goods is prohibited during this period.

(B) Premises for which there has been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 a.m. (midnight), but shall be closed during ~~the twenty-four hours of each Sunday, Christmas Day, and at any time when the election polls are open in the precinct in which the licensee's business is located.~~ However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked and placarded during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with this section.

(C) Retail sales of malt beverages under NQ or NO4 license may be made between the hours of 6:00 a.m. and 12:00 midnight each day except Sunday and except that no such sales shall be made ~~during the twenty-four (24) hours of each Sunday, Christmas Day, or during any time when the polls are open for an election in the precinct in which the license is granted.~~ Premises for which a malt beverage NQ license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or chilled malt beverages are locked up and/or unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

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

(E) During the time a licensee's business is actually closed, the premises of any licensee for the sale of alcoholic beverages by the drink or package must be closed to and vacant of all customers and all persons, except the licensee and employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, or delivered to anyone on the premises after 12:00P.M. (Midnight). Licensees of establishments licensed to sell alcoholic beverages shall allow no consumption of alcoholic beverages on the premises after 12:30A.M. and shall collect and clear all such beverages from the patrons, tables and bar by this time. No parties, private or public shall be held on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purpose.

(F) Wholesalers shall not deliver alcoholic beverages on Sunday.
(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 07-24, passed 12-10-07; Am. Ord. 08-11, passed 5-12-08)

§ 117.57 EXCEPTIONS TO MANDATORY CLOSING TIMES; REQUIREMENTS.

A licensee of a premise holding a ~~hotel/motel/inn drink license; or a licensee of a premise holding a license to sell alcoholic beverages or wine by the drink; any retail drink license;~~ shall be allowed to remain open to conduct normal business when the sale

of alcoholic beverage is prohibited. However, all stocks of alcoholic beverages shall be locked and closed off to the public during said time period.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 08-11, passed 5-12-08)

§ 117.58 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.59 ADVERTISING RESTRICTIONS.

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 07-24, passed 12-10-07)

§ 117.60 RETAIL SALES TO CERTAIN PERSONS PROHIBITED.

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

(A) A minor, except that in any action against a licensee for selling alcoholic beverages to a minor it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. The evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) A person actually or apparently under the influence of alcoholic beverages.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.61 MINORS NOT TO POSSESS OR PURCHASE ALCOHOLIC BEVERAGES NOR TO MISREPRESENT AGE; USE OF FRAUDULENT IDENTIFICATION.

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

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

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

(2) No person holding any license for on-premises consumption of distilled spirits and wine or a license for retail malt beverage sales, or any clerk, servant, agent or employee thereof shall permit any person under the age of twenty-one (21) years on the

licensed premises unless such premises is a restaurant, grocery store, hotel, private club, or upon the premises for a temporary licensed event, including plays or bona fide concerts. In such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.

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

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

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

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

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

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

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

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 07-24, passed 12-10-07)

§ 117.62 LICENSEE TO DISPLAY NOTICE REGARDING SALES TO MINORS.

Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows: Persons under the-age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100.00) if they:

(A) Enter licensed premises to buy, or have served to them, alcoholic beverages.

ALCOHOL
BEVERAGE CONTROL

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ORDINANCE 13-18

AN ORDINANCE AMENDING MT WASHINGTON CODE OF ORDINANCES 117

WHEREAS, the Kentucky Revised Statues have been amended to change, simplify, and correct inconsistencies therein; and

WHEREAS, the Statues authorize city license structure for alcohol beverage license and the city license structure includes and the city license structure includes terms taken from and citations to Kentucky Revised Statues; and

WHEREAS, changes are needed to the ordinance to incorporate changes to the Kentucky Revised Statues; and

WHEREAS, these changes do not include changes in the city policy or philosophy relief to the sale of alcoholic beverages.

NOW, THEREFORE, BE IT ORDANINED BY THE CITY COUNCIL OF THE CITY OF MOUNT WASHINGTON, KENTUCKY THAT CHAPTER 117 OF THE MOUNT WASHINGTON CODE OF ORDINANCES IS AMENDED AS FOLLOWS:

GENERAL PROVISIONS

§ 117.01 TITLE.

This chapter shall be known and may be cited as the Alcoholic Beverage Control Ordinance of the City of Mt. Washington, Kentucky.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.02 INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED.

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

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

(C) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter 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. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.03 SCOPE OF COVERAGE.

(A) The purpose of this chapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverages pursuant to ~~KRS 242.185(2)~~, 243.072 and other applicable law for any hotel, motel, inn or restaurant on its premises. To realize this intent, the city shall implement this chapter in such a manner to insure that:

(1) Hotels, motels, or inns licensed under this chapter shall contain not less than fifty (50) sleeping units and have dining facilities for no less than one hundred (100) persons which dining facilities generate a minimum of seventy percent (70%) of its gross receipts from the sale of food.

(2) Restaurants and dining facilities licensed under this chapter 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.

(3) 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.

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

(B) This chapter shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine by hotels, motels, inns and restaurants where the context permits such applications. Unless the context otherwise admits or requires, the term "alcoholic beverages" shall mean and shall include distilled spirits, wine and malt beverages.

(C) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the city where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance or ordinances of the city nor of any state statutes or regulations.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.05 NOTICE TO STATE ABC BOARD OF FEES LEVIED.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

ADMINISTRATION

§ 117.15 OFFICE OF ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR
TO ENFORCE.

(A) The city has heretofore in Ordinance 84-7 created the Office of Alcoholic Beverage Control Administrator (hereafter referred to in this chapter as "MWABC") which is codified in § 31.37. All references to city administrator in KRS Chapters 241 through 244 shall be construed, for the purposes of this chapter, to refer to the Mt. Washington Alcoholic Beverage Control Administrator (MWABC).

(B) Pursuant to KRS 241.160, the Mt. Washington Alcoholic Beverage Control Administrator (MWABC) shall enforce this chapter.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.16 CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR
(MWABC) TO PROMULGATE REGULATIONS.

The MWABC shall have the power and authority to promulgate such regulations as may be necessary to implement and/or administer this chapter. No regulation of the MWABC shall become effective until it has first been appropriately approved by the City Council.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.17 FUNCTIONS: DUTIES AND POWERS.

(A) The functions of the MWABC shall be the same with respect to city licenses and regulations as is the function of the state Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations, except that no regulation of the MWABC shall be less stringent than the state statutes and regulations relating to alcoholic beverage control.

(B) The MWABC shall have the same powers and duties with respect to suspension and revocation for cause of city licenses as the state Alcoholic Beverage Control Board has with respect to state licenses under KRS 241.060. The MWABC, on his or her own initiative, or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

(C) Should the MWABC 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 city Police Department for the purpose of having his or her fingerprints taken.

(D) Appeals from the orders of the MWABC 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 MWABC. Matters at issue shall be heard by the Board as an original proceeding. Appeals from the orders of the MWABC shall be governed by KRS Chapter 13B.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.18 CREATION OF MWABC EMPLOYEES.

(A) The MWABC shall have such investigators and employees as the City Council may deem necessary to enforce this chapter. MWABC investigators and employees shall be appointed and approved by the Mayor and shall serve under the direction of the MWABC, and at the discretion of the MWABC and the Mayor.

(B) The salary of the MWABC investigators and employees shall be set by the City Council.

(C) 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.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.19 POWERS OF INVESTIGATION AND ENFORCEMENT.

MWABC and the MWABC's investigators shall have full investigative and enforcement powers required of this office. Any peace officer having proper jurisdiction may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant. Applicants for any license authorized by this chapter shall, by application for said license, be deemed to have consented to said inspections.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 07-24, passed 12-10-07)

§ 117.20 RIGHT OF INSPECTION.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

LICENSING REGULATIONS

§ 117.30 CLASSIFICATION OF LICENSES.

(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 a corresponding

city license for each of the state licenses described in § 117.32. The actions, business, and transactions authorized and permitted thereby and the expiration dates thereof shall be and are the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in § 117.32. The fees for such city licenses shall be the maximum allowed by law as indicated in § 117.32.

(B) No person shall cause, permit, or engage in any of the actions, business, or transactions authorized by such city and state licenses within the city without both a valid city license and a valid state license.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.31 NUMBER OF LICENSES.

The number of retail package, retail drink, retail malt beverage, wholesale malt beverage distributors and wholesale distilled spirits distributor licenses issued in the city shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243 or 244 and all state administrative regulations promulgated pursuant thereto, as may be amended from time to time.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.32 LICENSE FEE SCHEDULE.

~~(A) Regulatory License Fee~~

1. Pursuant to KRS 243.075...

~~(A)~~—The licenses authorized under this subchapter shall be divided into the following categories and the applicant shall, at the time of his or her application, pay to the city the appropriate fee for each license applied for:

(1) ~~Distilled spirits, wine and retail package license~~ Quota Retail Package License: six hundred dollars (\$600.00) per year. Retail package sale of distilled spirits and wine in sealed containers, but not for consumption on the licensed premises.

(2) ~~Retail malt beverage~~ NQ Retail Malt Beverage Package license: Retail package sales only for consumption off premises.

(a) New applicants: two hundred dollars (\$200.00) per year.

(b) Applicants for renewal: one hundred-fifty dollars (\$150.00) per year.

(3) NQ-4 Retail Malt Beverage Drink License: Permits malt beverage drink sales only on premises.

~~(3) Restaurant wine license. Retail sale of wine for consumption on the licensed premises of a bona fide restaurant where distilled spirits for consumption on the premises in not available, or a license has not been issued.~~

(4) Retail Drink License: a license permitting the sale of distilled spirits, wine, and malt beverages by the drink. At qualifying restaurants, motels, airports and riverboats.

(a) New applicants: six hundred dollars (\$600.00) per year.

(b) Applicants for renewal: four hundred dollars (\$600) per year.

~~(4) Limited retail restaurant, motel, or inn drink license (5) six hundred dollars (\$600.00) per year. Retail sale of distilled spirits and wine by the drink for consumption on the licensed premises.~~

(B) No license shall be issued hereunder until the same has been approved as required by law and by the State Alcoholic Beverage Control Board and by the MWABC. Licenses which have been approved according to law, and which are not prohibited by this chapter, shall then be issued by the City Clerk.

(C) Persons desiring to obtain a license hereunder for only part of a license year shall pay a prorated fee equal to as many twelfths of the annual license fee as there are calendar months remaining in the license year, including the month in which the license is granted. In no event shall the prorated license fee be less than one-half (1/2) the full annual license fee.

(D) Any license issued to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(E) All licenses shall expire on June 30 of each year.

(F) This section shall not be construed to limit the city's authority under KRS ~~242.185(4)~~243.072 and §§ 117.33 and 117.34 of this chapter, or any other provision of law, to issue licenses permitted by KRS 243.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 05-06, passed 3-14-05)

§ 117.33 NQ 1 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 seventy percent (70%) or more of its gross annual income of the sale of food and has a minimum seating capacity of one hundred (100) persons at permanent tables.

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

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.34 CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE.

(A) The City Council, pursuant to KRS ~~242.185~~ 243.072, has determined that economic hardship exists within the city, as is evidenced by lack of hotels, motels and inns; slow rate of growth; and a lack of commercial and industrial development. The City Council has further determined that the licensing authorization contained in subsections "B" and "C" of this section could aid economic growth. Further, the City Council adopts this chapter, i.e. the "Alcoholic Beverage Control Ordinance of the city," as a comprehensive, regulatory ordinance covering, inter alia, the licensing and operation of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(B) The city shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages if a malt beverage license is obtained. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons at permanent tables which derive at least seventy percent (70%) of their gross revenue from the sale of food, or bona fide restaurants open to the general public having permanent dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having

the minimum seating requirements set forth above, restaurants which derive at least seventy percent (70%) of their gross revenue from the sale of food; this requirement is and shall be in accord with KRS ~~242.1295~~ 243.083. The fee for such a license shall be six hundred dollars (\$600.00) per annum.

(C) In accordance with KRS ~~242.185(4)~~, 243.072 the MWABC is authorized to issue any license permitted by KRS 243.070, and the activity thereby licensed is permitted in according with state law and city law.

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

(E) All regulations which may be issued to administer KRS ~~242.185~~ 243.072, this section of this chapter, and any other provision of this chapter or State law, shall conform to the requirements of KRS 241.190.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.35 SPECIAL SUNDAY SALE LICENSES.

~~This chapter shall not be construed to authorize city special Sunday sale retail drink licenses.~~

(A) (1) Other provisions of this chapter notwithstanding, Sunday sale of alcoholic beverages shall be permitted if compliance to this section is strictly met.

(2) Only a holder of a valid by the drink license may apply for a Sunday by the drink license.

(3) The fee for such special Sunday sale license shall be \$300 which shall not be pro-rated upon initial issuance, thereafter renewals shall be at the same times and in the same manner as the holders of retail by the drink licenses.

(4) The hours permitted for sale under this special Sunday license shall be on all Sundays beginning at 1:00 p.m. local time and continuing until the closing times set forth elsewhere in this chapter.

(5) Only those alcoholic beverages permitted to be sold by the drink by the regular by the drink licenses held by the holder thereof are permitted under this license.

(6) Only those premises licensed under the regular by the drink license held by the holder thereof shall be permitted premises under this license.

(7) All other provisions of this chapter not in conflict herewith, such as the requirement of food sales, etc. shall apply.

(B) (1) Other provisions of this chapter notwithstanding, Sunday sale of malt beverages shall be permitted if compliance to this section is strictly met.

~~(2) Only a holder of a valid malt beverage license who does not engage in package sales may apply for a Sunday by the drink license.~~

~~(3) The fee for such special Sunday sale malt beverage license shall be \$100 which shall not be pro-rated upon initial issuance, thereafter renewals shall be at the same times and in the same manner as the holder's malt beverage licenses.~~

(4) The hours permitted for sale under this special ~~Sunday malt beverage license~~ section shall be on all Sundays beginning at 1:00 p.m. local time and continuing until the closing times set forth elsewhere in this chapter.

(5) Only those premises which hold a malt beverage a NQ-4 retail license who are not engaged in the package sale of malt beverages and who regularly provide on site prepared food services are permitted. ~~under this license.~~

(6) All other provisions of this chapter not in conflict herewith shall apply.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 11-02, passed 5-9-11)

§ 117.36 LICENSE TERM: RENEWAL.

Applications for renewal of licenses required by this chapter shall be made for each license year, which, in order to coincide with the state license year, shall begin the first day of February and extend through the last day of January of the succeeding year.

Applications for renewal are to be filed with the MWABC no less than fifteen (15) or more than forty five (45) days prior to expiration.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 08-11, passed 5-12-08)

§ 117.37 PRO-RATION; REFUNDS PROHIBITED.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.38 ASSIGNMENT, TRANSFER, CONTINUANCE, LICENSE REPLACEMENT.

(A) Any license issued to any person, corporation, partnership or other entity for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(B) When a license has been lost or destroyed, the MWABC may issue a duplicate or replacement license upon payment of a fee of fifty dollars (\$50.00).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.39 LOCATION RESTRICTED.

(A) Licenses under this chapter shall not authorize the conduct of business in any place other than that specifically described in the original State application and license.

(B) No retail distilled spirits and wine package license shall be granted for a premises which is located within seven hundred (700) feet of any other premises licensed for retail distilled spirits and wine package sales. The distance stated herein shall be measured in accordance with KRS 241.075(3).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.40 APPLICATION, CONTENTS, EMERGENCY ACTION.

(A) Applications for licenses shall be made to the MWABC, in writing signed by the applicant, if an individual, or by a duly authorized agent thereof, if a corporation. Such applications shall be made on forms supplied by the City Clerk and no license shall be issued until completed in full and the appropriate fee therefore has been paid. A written application must be made with the truth of the information, statements, and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of such application shall be prescribed by the regulation of the MWABC; however, provision for the following information, statements, and representations shall and must be included therein;

(1) All information required by KRS 243.380 and 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the inspection of the licensed premises, by the MWABC in addition to their consent that the MWABC may inspect and search the licensed premises at any reasonable time, review financial records and books of the business without notice, confiscate articles found on the premises in violation of any ordinance, statute, or regulation, and to order an emergency temporary closure of the

premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder, without first obtaining a search warrant. Additionally, the MWABC may confiscate any contraband property or items. The temporary closure shall remain in effect until review of the alleged violations by the MWABC, which review shall occur within thirty-six (36) hours (weekends and holidays excluded) of the imposition of the temporary closure.

(3) Documentary evidence of an application for state license, which corresponds to the city license for which the application is being made which shall include a copy of the state issued license shall also accompany the application.

(4) Original applications for any alcoholic beverage license must be accompanied by a copy of notice of the applicant's intention to make application, published once before such application is filed, in the regular edition of the official newspaper of the city, which shall be, "The Pioneer News".

(5) A copy of the applicant's deed, or lease, for the property.

(6) If the applicant is a corporation, a copy of the Articles of Incorporation and a list (including name, address and telephone number) of all stockholders who own more than 40% of the corporate stock. Said list of stockholders must be amended at any time a change occurs which allows a person to hold more than 40% of the corporate stock.

(7) If the applicant is a limited liability company the application must include the name, address, and telephone number of all members of the LLC which list shall be amended upon any change in ownership.

(8) If the applicant is a partnership the application shall include a copy of the partnership agreement. Any changes in the partnership agreement shall be submitted to the City Clerk upon said change.

(B) All applicants, all officers of any applicant corporation, all persons holding forty (40%) percent or more of the stock in an applicant corporation or owners or partners of an applicant partnership or LLC shall each submit to a background check to be conducted by the city ABC Officer. All applicants, officers of any applicant corporation, and persons holding more than forty (40%) percent of the corporate stock shall provide such information as may be required by the city ABC Officer to complete the background check. That background check may include, if deemed necessary by the city ABC Officer, a requirement of fingerprints and a current color photograph of themselves with all other documents as required in the application process or during any subsequent renewal if not previously provided or otherwise deemed necessary by the MWABC. (Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.41 APPROVAL OR DENIAL OF APPLICATION.

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

(1) The applicant has complied with all requirements of the State Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter;

(2) The location is one that can be approved, including but not limited to the requirements of KRS 243.220 and this chapter;

(3) A license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and

(4) There are no other causes for denial of the license.

(B) If the MWABC has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the MWABC may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The MWABC shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the Administrator. Any decision by the Administrator on the application shall be subject to appeal as provided by law.

(C) No license provided for in this chapter shall be issued if there is cause for refusal as specified in KRS 243.450, and the MWABC shall not approve any application for a city license if:

(1) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(2) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted, or engaged in any act for which the revocation of a state or city license is authorized;

(3) The applicant and/or any shareholder, officer, agent, servant, or employee thereof had a state license or city license which was revoked within two (2) years of date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during such time;

(4) The applicant, his agent, or manager has been convicted of a felony.

(5) An applicant who at the time of application for renewal of any license issues hereunder would not be eligible for such license upon a first application.

(6) A partnership unless all the members of the partnership shall be qualified to obtain such a license and whose partnership agreement, along with all subsequent

modifications, has been recorded in the County Clerks Office. A copy of the partnership agreement, and all modifications, shall accompany the application.

(7) An applicant premise is located in an area of the city not zoned for commercial use under the zoning laws of the city. This section shall not preclude the issuance of a license on premises for which a proper zoning change has been granted by the City Council.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.42 PAYMENT OF FEES.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.43 POSTING OF LICENSES; PUBLIC RECORD.

Each city license shall be in substantially the same form prescribed by KRS 243.440 for State licenses, and shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate or facsimile of each city license shall remain in the MWABC's office as part of the public record.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.44 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL.

(A) Under the provisions of the Kentucky Revised Statutes, all administrative regulations promulgated pursuant to the provisions of the Kentucky Revised Statutes, and

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CLERK OF COURTS
BEVERLY H. COCHRAN

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

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

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

(D) Applications for renewal of licenses and payment of the license fee must be on file with the MWABC at least fifteen (15) days, but not more than forty-five (45) days, before

the expiration of the licenses for the preceding license period, or the license shall be cancelled. However, the licensee may file a written, verified statement at least fifteen (15) days prior to the expiration date of the license, setting forth facts justifying an extension. The MWABC may then extend the time for filing an application for renewal of the license for a reasonable length of time within the exercise of his or her sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.45 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE AND FOR SUSPENSION OR REVOCATION OF LICENSE.

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

(B) No license to sell alcoholic beverages shall be granted or renewed to any person or other entity delinquent in the payment of any taxes or fees due the city at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee, upon which there are any delinquent taxes or fees due the city. If a licensee becomes delinquent in the payment of any taxes or any fees due the city at any time during the license period, the license to sell alcoholic beverages shall be subject to revocation or suspension. The MWABC may, in his or her discretion, approve a license to sell after receiving from the City Clerk, a written

statement to the effect that the applicant for the license has paid the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees which are due and payable by the licensee.

(C) Appeals may be taken from decisions of the MWABC to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.1000 and 243.550. (Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.46 LICENSE CONDITIONS.

In addition to all conditions, rules and regulations contained in the Kentucky Revised Statutes and elsewhere in this chapter all licenses issued hereunder shall be subject to the following conditions:

(A) A ~~distilled spirits or wine retail package~~, Quota or Non-Quota (NQ) license shall be issued only for the portion of the premises located on the street level, and the place or location of the licensed premises shall be written into the license.

(B) A ~~limited retail drink license~~, Quota or Non-Quota (NQ) for the sale of ~~distilled spirits~~, any alcohol by the drink at restaurants, motels, hotels, and inns shall be issued only on the following conditions:

(1) Hotels, motels or inns must contain not less than fifty (50) sleeping units and have dining facilities for not less than one hundred (100) persons at permanent tables which derive at least seventy percent (70%) of their gross revenue from the sale of food.

(2) Bona fide restaurants shall be restaurants open to the general public having permanent dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least seventy percent

(70%) Of their gross revenue from the sale of food; this requirement is and shall be in accord with KRS ~~242.1295~~ 243.083.

(3) Applicants shall obtain and present with the application a Fire Marshal's certificate as to seating capacity of the dining facility, a food service permit from the health department, and an inspection and certification by the city Fire Chief that the premises of the applicant meets all fire, building and safety standards.

(4) All alcoholic beverages sold by the drink must be consumed on the premises.

(5) No licensee shall require a minimum cover charge, or charge admission to the premises.

(6) (a) "SERVER" for purposes of this section shall mean any person employed or working in any capacity, whether as an employee, volunteer help or as a working proprietor, in any premise licensed for the sale of alcoholic beverages where alcoholic beverages are sold for consumption on the premises and whose job duties include the sale, dispensing or service of alcoholic beverages or the management of the licensed premises.

(b) No person shall be employed by a licensed premise as a server unless the server has successfully completed a state approved alcoholic beverage server training program. This training program shall be completed for all newly hired servers within sixty (60) days of the first date of their employment. Servers or managers successfully completing the training shall receive a server certification from the server training program. Each server shall complete recertification at least every three (3) years. Each such licensed premise shall maintain a file at the licensed premise containing the name, date of employment, and proof of certification of each server regulated by this section.

This information shall be made available at any reasonable time to the MWABC or any police officer.

(7) Each restaurant licensee shall file with the City Clerk and the city's Alcoholic Beverage Control Administrator every six(6) months a report setting out the total gross receipts from the sale of food and the total gross receipts from the sale of alcoholic beverages. The report shall be notarized and sworn to by the person filing the report. In addition, the licensee agrees to provide tax returns, receipt, or any other business record which the MWABC may request in order to verify the information contained in the report.

(8) No license for the sale of alcoholic beverages at retail shall be used for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period. A copy of the applicant's deed, or lease, documenting ownership or lease shall be submitted with the application.

(9) No city license for the sale of alcoholic beverages at retail shall be issued for any premises which are prohibited licenses under any of the provisions of state law.

(10) A license that might be issued shall be refused for the same causes set forth in state law for the refusal of state licenses.

(11) Licenses may be revoked or suspended for the same causes set forth in state law for the suspension or revocation of state license.

(12) No licensee hereunder shall sell any intoxicant or alcoholic beverages behind blinds or screen, but such sales shall be conducted openly and without any attempt to hide it or screen it from the public view.

(13) A licensee which holds ~~a restaurant wine license or limited~~ any retail drink license for hotels, motels, inns and restaurants may not hold for the same premises a ~~distilled spirits and wine~~ any retail package license.

(14) No gaming device of any kind shall be permitted upon any licensed premises, nor shall any gambling of any kind be permitted upon such licensed premises.

(15) No live entertainment shall be permitted upon any licensed premises which has more than six (6) members who comprise the act, show, or production. No live entertainment shall be permitted past the hour of 12:00 a.m.(midnight).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 05-27, passed 8-22-05; Am. Ord. 07-24, passed 12-10-07)

SALE OF ALCOHOLIC BEVERAGES

§ 117.55 LICENSE REQUIRED FOR SALE.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.56 HOURS OF SALE.

(A) Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted shall be permitted to remain open during the hours of 6:00 a.m. to 12:00 a.m. (midnight), but shall remain closed

during the twenty-four (24) hours of Sunday, Christmas Day, ~~and at any time when the election polls are open in the precinct in which the licensee's business is located.~~

However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked and placarded during the aforesaid time the licensee is not permitted to sell alcoholic beverages, the licensee shall be deemed to have complied with this section. Placarded shall indicate that the sale of such goods is prohibited during this period.

(B) Premises for which there has been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 a.m. (midnight), but shall be closed during ~~the twenty-four hours of each Sunday, Christmas Day, and at any time when the election polls are open in the precinct in which the licensee's business is located.~~ However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked and placarded during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with this section.

(C) Retail sales of malt beverages under NQ or NQ4 license may be made between the hours of 6:00 a.m. and 12:00 midnight each day except Sunday and except that no such sales shall be made ~~during the twenty-four (24) hours of each Sunday, Christmas Day, or during any time when the polls are open for an election in the precinct in which the license is granted.~~ Premises for which a malt beverage NQ license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or

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

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

(E) During the time a licensee's business is actually closed, the premises of any licensee for the sale of alcoholic beverages by the drink or package must be closed to and vacant of all customers and all persons, except the licensee and employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, or delivered to anyone on the premises after 12:00P.M. (Midnight).

Licensees of establishments licensed to sell alcoholic beverages shall allow no consumption of alcoholic beverages on the premises after 12:30A.M. and shall collect and clear all such beverages from the patrons, tables and bar by this time. No parties, private or public shall be held on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purpose.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 07-24, passed 12-10-07; Am. Ord. 08-11, passed 5-12-08)

§ 117.57 EXCEPTIONS TO MANDATORY CLOSING TIMES; REQUIREMENTS.

A licensee of a premise holding a ~~hotel/motel/inn-drink license; or a licensee of a premise holding a license to sell alcoholic beverages or wine by the drink; any retail drink license;~~ shall be allowed to remain open to conduct normal business when the sale

of alcoholic beverage is prohibited. However, all stocks of alcoholic beverages shall be locked and closed off to the public during said time period.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 08-11, passed 5-12-08)

§ 117.58 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.59 ADVERTISING RESTRICTIONS.

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 07-24, passed 12-10-07)

§ 117.60 RETAIL SALES TO CERTAIN PERSONS PROHIBITED.

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

(A) A minor, except that in any action against a licensee for selling alcoholic beverages to a minor it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. The evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) A person actually or apparently under the influence of alcoholic beverages.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.61 MINORS NOT TO POSSESS OR PURCHASE ALCOHOLIC BEVERAGES NOR TO MISREPRESENT AGE; USE OF FRAUDULENT IDENTIFICATION.

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

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

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

(2) No person holding any license for on-premises consumption of distilled spirits and wine or a license for retail malt beverage sales, or any clerk, servant, agent or

employee thereof shall permit any person under the age of twenty-one (21) years on the licensed premises unless such premises is a restaurant, grocery store, hotel, private club, or upon the premises for a temporary licensed event, including plays or bona fide concerts. In such exempted premises, persons under twenty-one (21) years of age shall not enter the barroom area.

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

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

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

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

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

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

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

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 07-24, passed 12-10-07)

§ 117.62 LICENSEE TO DISPLAY NOTICE REGARDING SALES TO MINORS.

Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows: Persons under the-age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100.00) if they:

(A) Enter licensed premises to buy, or have served to them, alcoholic beverages.

(B) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.

(C) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

(For example, see Appendix A)

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.63 ALCOHOLIC BEVERAGES-PREMISES.

(A) Any person or licensee which owns, operates or controls any business establishment which serves or provides any type of alcoholic beverage shall prohibit the removal of any such alcoholic beverage from inside the licensed premise to the outside of the licensed premise if said alcoholic beverage is in any opened container.

(B) Any person or licensee which owns, operates or controls any business establishment where alcoholic beverages are served or provided shall prohibit the drinking of said alcoholic beverages on any parking lot which is adjacent, connected with or used by the patrons of a licensed premises, which is under the direct control of a licensee or which is part of a licensed premises.

(C) No person shall drink any alcoholic beverage on any parking lot which is made available for use by the patrons of a licensed premises, which is under the direct control of a licensee or which is part of a licensed premises.

(D) No person shall consume or be in possession of any alcoholic beverage on licensed premises other than alcoholic beverages sold and dispensed by the licensee. The licensee or his agent shall have the authority to order the immediate removal of any alcoholic beverage carried onto licensed premises in violation of this section.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

REGULATORY LICENSE FEE

§ 117.70 REGULATORY LICENSE FEE IMPOSED.

(A) A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages sold by each establishment licensed to sell alcoholic beverages by the drink for consumption on the premises. Such fee is imposed for the purpose of insuring full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The City Council shall adopt, at the budget adoption for the fiscal year, an annual rate for the regulatory license fee as shall be reasonably estimated to insure full reimbursement to the city the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to the licenses or fees imposed under other provisions of Chapter 117.

(B) The regulatory license fee shall be three percent (3%) for the licensing year beginning July 1, 2003, and continuing thereafter until amended or repealed.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 07-24, passed 12-10-07)

§ 117.71 PAYMENT.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 08-08, passed 2-25-08)

§ 117.72 FAILURE TO PAY.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.73 INTEREST ON LATE PAYMENTS.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.74 ADEQUATE RECORD KEEPING REQUIRED.

Every licensee shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the MWABC. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the MWABC, the City Auditor, or any authorized representatives.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.99 PENALTY.

(A) Penalty for nonpayment. If the holder of any license shall fail to pay the regulatory license fee imposed by this chapter within ten (10) days of the due date, an automatic penalty of fifty dollars (\$50.00) shall be assessed for the first offense. An

automatic penalty of one hundred dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of two hundred dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, the MWABC may hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

(B) Infraction constitutes a misdemeanor.

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

(a) For the first offense a fine not to exceed five hundred dollars (\$500.00);

(b) For any subsequent offense a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not more than six (6) months, or both.

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

APPENDIX A: NOTICE TO MINORS, EXAMPLE OF TYPE

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

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

(B) Alternate language: "If you are under twenty-one (21) years old, you can be fined up to one hundred dollars (\$100.00) if you:

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

(Ord. 03-13, passed 8-11-03)

First Reading: October 14, 2013

Second Reading: November 25, 2013

Adopted this 25th day of November, 2013

Results of the Roll Call Vote are as follows:

	YES	NO	ABSTAIN
Barry Armstrong	X	_____	_____
Shot Dooley	X	_____	_____
Greg Gentry	X	_____	_____
Sandra Hockenbury	X	_____	_____
Gayle Troutman	X	_____	_____
Brent Wheeler	X	_____	_____

Attest:

Elizabeth D. Hall, City Clerk



Joetta Calhoun, Mayor

RECEIVED
 2014 MAY 27 AM 10 05
 ALCOHOL
 BEVERAGE CONTROL

ORDINANCE 11-02

AN ORDINANCE AMENDING ORDINANCE NO 3-24 SECTION 3.06 as CODIFIED IN THE CODE OF ORDINANCES CHAPTER 117 SECTION 35 BEING THE ALCOHOL LICENSE ORDINANCE AS AMENDED TO PROVIDE FOR BY THE DRINK SUNDAY SALES LICENSE; THE FEE, HOURS AND LOCATION PERMITTED FOR SALE.

WHEREAS, The City Council of the City of Mt. Washington having previously determined that economic hardship existed within the City, and

WHEREAS, The City Council having further determined the sale of alcoholic beverage by the drink could aid economic growth, and

WHEREAS, Since the Adoption of the Ordinances permitting the sale of liquor by the drink some economic growth has taken place employing the sale of alcoholic beverages by the drink, and

WHEREAS, The City Council has determined that economic growth has been limited by the restriction on Sunday Sales of alcoholic beverages by the drink, and

WHEREAS, The City Council has further determined that the removal of such restriction with strict requirements will aid and continue economic growth in the City of Mt. Washington,

NOW THEREFORE, be it **ORDAINED** by the City Council of the City of Mt. Washington as follows:

SECTION I Ordinance 3-24 Section 3.06 as codified in Chapter 117 Section 35 in the City's Code of Ordinances is Amended as follows(deletions are shown by strikethroughs and additions are shown by underline):

Section 3.06 (117.35) SPECIAL SUNDAY SALE LICENSES ~~NOT~~ PERMITTED.

Subsection 1.

- A. Other provisions of this Ordinance notwithstanding, Sunday Sale of Alcoholic Beverages shall be permitted if compliance to this Section of the Ordinance is strictly met.
- B. Only a holder of a valid by the drink license(s) may apply for a Sunday by the Drink License.
- C. The Fee for such Special Sunday Sale License shall be Five Hundred Dollars (\$500.00) which shall not be pro-rated upon initial issuance, thereafter renewals shall be at the same times and in the same manner as the holders of retail by the drink license(s).
- D. The hours permitted for sale under this Special Sunday License shall be on all Sundays beginning at One PM (1:00pm) local time and continuing until the closing times set forth elsewhere in this Ordinance.

- E. Only those alcoholic beverages permitted to be sold by the drink by the regular by the drink license(s) held by the holder thereof are permitted under this license.
- F. Only those premises licensed under the regular by the drink license(s) held by the holder thereof shall be permitted premises under this license.
- G. All other provisions of this Ordinance not in conflict herewith, such as the requirement of food sales etc., shall apply

Subsection 2

- A. Other provisions of this Ordinance notwithstanding, Sunday Sale of Malt Beverages shall be permitted if compliance to this Subsection of the Ordinance is strictly met.
- B. Only a holder of a valid Malt Beverage License who does not engage in package sales may apply for a Sunday by the Drink License.
- C. The Fee for such Special Sunday Sale Malt Beverage License shall be One Hundred Dollars (\$100.00) which shall not be pro-rated upon initial issuance, thereafter renewals shall be at the same times and in the same manner as the holders Malt Beverage Licenses.
- D. The hours permitted for sale under this Special Sunday Malt Beverage License shall be on all Sundays beginning at One PM (1:00pm) local time and continuing until the closing times set forth elsewhere in this Ordinance.
- E. Only those premises which hold a Malt Beverage License who are NOT engaged in the Package sale of Malt Beverages and who regularly provide on site prepared food services are permitted under this license.
- F. All other provisions of this Ordinance, not in conflict herewith shall apply

SECTION II: Should any section, clause, line, paragraph, or any other part of the ordinance be held unconstitutional or invalid for any reason, the same shall not affect the remainder of this ordinance.

SECTION III: All Ordinances or parts of Ordinances in conflict with this Ordinance or any part of this Ordinance are hereby repealed.

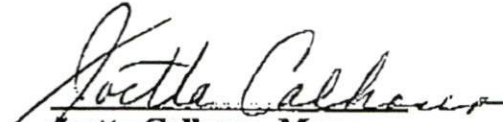
SECTION IV: This Ordinance shall take effect upon passage and publication as required by law.

First Reading: April 25, 2011

Second Reading: May 9, 2011

Adopted this 9th day of May 2011


Kenneth J. Stovall, Jr. Clerk


Joetta Calhoun, Mayor

ORDINANCE NO: 08-11

AN ORDINANCE OF THE CITY OF MT. WASHINGTON, BULLITT COUNTY,
KENTUCKY, AMENDING CERTAIN SECTIONS OF THE ALCOHOL BEVERAGE
CONTROL ORDINANCE.

WHEREAS, the City desires to amend certain sections of Chapter 117

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
MT. WASHINGTON, KENTUCKY THAT:

117.36, Titled, License Term: Renewal, is amended as follows:

Applications for renewal of licenses required by this chapter shall be made for each license year, which, in order to coincide with the state license year, shall begin the first day of February and extend through the last day of January of the succeeding year. Applications for renewal are to be filed with the MWABC no less than fifteen (15) or more than forty five (45) days prior to expiration.

117.56(E), Titled, Hours of Sale, is amended as follows:

During the time a licensee's business is actually closed, the premises of any licensee for the sale of alcoholic beverages by the drink or package must be closed to and vacant of all customers and all persons, except the licensee and employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, or delivered to anyone on the premises after 12:00P.M. (Midnight). Licensees of establishments licensed to sell alcoholic beverages shall allow no consumption of alcoholic beverages on the premises after 12:30A.M. and shall collect and clear all such beverages from the patrons, tables and bar by this time. No parties, private or public shall be held on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours. for a party or for any other purpose.

**117.57, Titled, Exceptions to Mandatory Closing Times; Requirements
is amended as follows:**

A licensee of a premise holding a hotel/motel/inn drink license; or a licensee of a premises holding a license to sell alcoholic beverages or wine by the drink; shall be allowed to remain open to conduct normal business when the sale of alcoholic beverage is prohibited. However, all stocks of alcoholic beverages shall be locked and closed off to the public during said time period.

SECTION 1: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed

SECTION 2: Should any section, clause, line, paragraph, or any other part of the ordinance be held unconstitutional or invalid for any reason, the same shall not affect the remainder of this ordinance.

SECTION 3: This ordinance shall become effective upon its passage and shall be published as required by law.

First reading: April 28, 2008

Second Reading: May 12, 2008

Adopted this 12th day of May, 2008

Joetta Calhoun – Mayor

ATTEST:

Kenneth J. Stovall, Jr. – City Clerk

The result of the roll call vote is as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Barry Armstrong	X		
Shot Dooley	X		
Greg Gentry	X		
Gary Lawson	X		
Emily Rucker	Absent		
Brent Wheeler	X		

TITLE XI: BUSINESS REGULATIONS**CHAPTER 117: ALCOHOLIC BEVERAGE LICENSES**

CHAPTER 117: ALCOHOLIC BEVERAGE LICENSES

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Appendix A Notice to minors, example of type

GENERAL PROVISIONS

§ 117.01 TITLE.

This chapter shall be known and may be cited as the Alcoholic Beverage Control Ordinance of the City of Mt. Washington, Kentucky.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.02 INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED.

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

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

(C) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter 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. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.03 SCOPE OF COVERAGE.

(A) The propose of this chapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverages pursuant to KRS 242.185(2), and other applicable law for any hotel, motel, inn or restaurant on its premises. To realize this intent, the city shall implement this chapter in such a manner to insure that:

(1) Hotels, motels, or inns licensed under this chapter shall contain not less than fifty (50) sleeping units and have dining facilities for no less than one hundred (100) persons which dining facilities generate a minimum of seventy percent (70%) of its gross receipts from the sale of food.

(2) Restaurants and dining facilities licensed under this chapter 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.

(3) 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.

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

(B) This chapter shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine by hotels, motels, inns and restaurants where the context permits such applications. Unless the context otherwise admits or requires, the term "alcoholic beverages" shall mean and shall include distilled spirits, wine and malt beverages.

(C) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the city where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance or ordinances of the city nor of any state statutes or regulations.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.05 NOTICE TO STATE ABC BOARD OF FEES LEVIED.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

ADMINISTRATION

§ 117.15 OFFICE OF ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR TO ENFORCE.

(A) The city has heretofore in Ordinance 84-7 created the Office of Alcoholic Beverage Control

Administrator (hereafter referred to in this chapter as "MWABC") which is codified in § 31.37. All references to city administrator in KRS Chapters 241 through 244 shall be construed, for the purposes of this chapter, to refer to the Mt. Washington Alcoholic Beverage Control Administrator (MWABC).

(B) Pursuant to KRS 241.160, the Mt. Washington Alcoholic Beverage Control Administrator (MWABC) shall enforce this chapter.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.16 CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR (MWABC) TO PROMULGATE REGULATIONS.

The MWABC shall have the power and authority to promulgate such regulations as may be necessary to implement and/or administer this chapter. No regulation of the MWABC shall become effective until it has first been appropriately approved by the City Council.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.17 FUNCTIONS: DUTIES AND POWERS.

(A) The functions of the MWABC shall be the same with respect to city licenses and regulations as is the function of the state Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations, except that no regulation of the MWABC shall be less stringent than the state statutes and regulations relating to alcoholic beverage control.

(B) The MWABC shall have the same powers and duties with respect to suspension and revocation for cause of city licenses as the state Alcoholic Beverage Control Board has with respect to state licenses under KRS 241.060. The MWABC, on his or her own initiative, or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

(C) Should the MWABC 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 city Police Department for the purpose of having his or her fingerprints taken.

(D) Appeals from the orders of the MWABC 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 MWABC. Matters at issue shall be heard by the Board as an original proceeding. Appeals from the orders of the MWABC shall be governed by KRS Chapter 13B.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.18 CREATION OF MWABC EMPLOYEES.

(A) The MWABC shall have such investigators and employees as the City Council may deem necessary to enforce this chapter. MWABC investigators and employees shall be appointed and approved by the Mayor and shall serve under the direction of the MWABC, and at the discretion of the MWABC and the Mayor.

(B) The salary of the MWABC investigators and employees shall be set by the City Council.

(C) 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.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.19 ADMINISTRATOR TO HAVE POLICE POWER.

The MWABC and the MWABC's investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the boundaries of the city. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant. Applicants for any license authorized by this chapter shall, by application for said license, be deemed to have consented to said inspections.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.20 RIGHT OF INSPECTION.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

LICENSING REGULATIONS

§ 117.30 CLASSIFICATION OF LICENSES.

(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 a corresponding city license for each of the state licenses described in § 117.32. The actions, business, and transactions authorized and permitted thereby and the expiration dates thereof shall be and are the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in § 117.32. The fees for such city licenses shall be the maximum allowed by law as indicated in § 117.32.

(B) No person shall cause, permit, or engage in any of the actions, business, or transactions authorized by such city and state licenses within the city without both a valid city license and a valid state license.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.31 NUMBER OF LICENSES.

The number of retail package, retail drink, retail malt beverage, wholesale malt beverage distributors and wholesale distilled spirits distributor licenses issued in the city shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243 or 244 and all state administrative regulations promulgated

pursuant thereto, as may be amended from time to time.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.32 LICENSE FEE SCHEDULE.

(A) The licenses authorized under this subchapter shall be divided into the following categories and the applicant shall, at the time of his or her application, pay to the city the appropriate fee for each license applied for:

(1) Distilled spirits, wine and retail package license: six hundred dollars (\$600.00) per year. Retail package sale of distilled spirits and wine in sealed containers, but not for consumption on the licensed premises.

(2) Retail malt beverage license:

(a) New applicants: two hundred dollars (\$200.00) per year.

(b) Applicants for renewal: one hundred-fifty dollars (\$150.00) per year.

(3) Restaurant wine license. Retail sale of wine for consumption on the licensed premises of a bona fide restaurant where distilled spirits for consumption on the premises is not available, or a license has not been issued.

(a) New applicants: six hundred dollars (\$600.00) per year.

(b) Applicants for renewal: four hundred dollars (\$400) per year.

(4) Limited retail restaurant, motel, or inn drink license: six hundred dollars (\$600.00) per year. Retail sale of distilled spirits and wine by the drink for consumption on the licensed premises.

(B) No license shall be issued hereunder until the same has been approved as required by law and by the State Alcoholic Beverage Control Board and by the MWABC. Licenses which have been approved according to law, and which are not prohibited by this chapter, shall then be issued by the City Clerk.

(C) Persons desiring to obtain a license hereunder for only part of a license year shall pay a prorated fee equal to as many twelfths of the annual license fee as there are calendar months remaining in the license year, including the month in which the license is granted. In no event shall the prorated license fee be less than one-half (1/2) the full annual license fee.

(D) Any license issued to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(E) All licenses shall expire on June 30 of each year.

(F) This section shall not be construed to limit the city's authority under KRS 242.185(4) and §§ [117.33](#) and [117.34](#) of this chapter, or any other provision of law, to issue licenses permitted by KRS 243.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 05-06, passed 3-14-05)

§ 117.33 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 seventy percent (70%) or more of its gross annual income of the sale of food and has a minimum seating capacity of one hundred (100) persons at permanent tables.

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

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.34 CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE.

(A) The City Council, pursuant to KRS 242.185, has determined that economic hardship exists within the city, as is evidenced by lack of hotels, motels and inns; slow rate of growth; and a lack of commercial and industrial development. The City Council has further determined that the licensing authorization contained in subsections "B" and "C" of this section could aid economic growth. Further, the City Council adopts this chapter, i.e. the "Alcoholic Beverage Control Ordinance of the city," as a comprehensive, regulatory ordinance covering, inter alia, the licensing and operation of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(B) The city shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages if a malt beverage license is obtained. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons at permanent tables which derive at least seventy percent (70%) of their gross revenue from the sale of food, or bona fide restaurants open to the general public having permanent dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least seventy percent (70%) of their gross revenue from the sale of food; this requirement is and shall be in accord with KRS 242.1295. The fee for such a license shall be six hundred dollars (\$600.00) per annum.

(C) In accordance with KRS 242.185(4), the MWABC is authorized to issue any license permitted by KRS 243.070, and the activity thereby licensed is permitted in according with state law and city law.

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

(E) All regulations which may be issued to administer KRS 242.185, this section of this chapter,

and any other provision of this chapter or State law, shall conform to the requirements of KRS 241.190.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.35 SPECIAL SUNDAY SALE LICENSES NOT AUTHORIZED.

This chapter shall not be construed to authorize city special Sunday sale retail drink licenses.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.36 LICENSE TERM: RENEWAL.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.37 PRO-RATION; REFUNDS PROHIBITED.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.38 ASSIGNMENT, TRANSFER, CONTINUANCE, LICENSE REPLACEMENT.

(A) Any license issued to any person, corporation, partnership or other entity for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(B) When a license has been lost or destroyed, the MWABC may issue a duplicate or replacement license upon payment of a fee of fifty dollars (\$50.00).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.39 LOCATION RESTRICTED.

(A) Licenses under this chapter shall not authorize the conduct of business in any place other than that specifically described in the original State application and license.

(B) No retail distilled spirits and wine package license shall be granted for a premises which is located within seven hundred (700) feet of any other premises licensed for retail distilled spirits and wine package sales. The distance stated herein shall be measured in accordance with KRS 241.075(3).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.40 APPLICATION, CONTENTS, EMERGENCY ACTION.

(A) Applications for licenses shall be made to the MWABC, in writing signed by the applicant, if an individual, or by a duly authorized agent thereof, if a corporation. Such applications shall be made on forms supplied by the City Clerk and no license shall be issued until completed in full and the appropriate fee therefore has been paid. A written application must be made with the truth of the information, statements, and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of such application shall be prescribed by the regulation of the MWABC; however, provision for the following information, statements, and representations shall and must be included therein;

(1) All information required by KRS 243.380 and 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the inspection of the licensed premises, by the MWABC in addition to their consent that the MWABC may inspect and search the licensed premises at any reasonable time, review financial records and books of the business without notice, confiscate articles found on the premises in violation of any ordinance, statute, or regulation, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder, without first obtaining a search warrant. Additionally, the MWABC may confiscate any contraband property or items. The temporary closure shall remain in effect until review of the alleged violations by the MWABC, which review shall occur within thirty-six (36) hours (weekends and holidays excluded) of the imposition of the temporary closure.

(3) Documentary evidence of an application for state license, which corresponds to the city license for which the application is being made which shall include a copy of the state issued license shall also accompany the application.

(4) Original applications for any alcoholic beverage license must be accompanied by a copy of notice of the applicant's intention to make application, published once before such application is filed, in the regular edition of the official newspaper of the city, which shall be, "The Pioneer News".

(5) A copy of the applicant's deed, or lease, for the property.

(6) If the applicant is a corporation, a copy of the Articles of Incorporation and a list (including name, address and telephone number) of all stockholders who own more than 40% of the corporate stock. Said list of stockholders must be amended at any time a change occurs which allows a person to hold more than 40% of the corporate stock.

(7) If the applicant is a limited liability company the application must include the name, address, and telephone number of all members of the LLC which list shall be amended upon any change in ownership.

(8) If the applicant is a partnership the application shall include a copy of the partnership agreement. Any changes in the partnership agreement shall be submitted to the City Clerk upon said change.

(B) All applicants, all officers of any applicant corporation, all persons holding forty (40%) percent or more of the stock in an applicant corporation or owners or partners of an applicant partnership

or LLC shall each submit to a background check to be conducted by the city ABC Officer. All applicants, officers of any applicant corporation, and persons holding more than forty (40%) percent of the corporate stock shall provide such information as may be required by the city ABC Officer to complete the background check. That background check may include, if deemed necessary by the city ABC Officer, a requirement of fingerprints and a current color photograph of themselves with all other documents as required in the application process or during any subsequent renewal if not previously provided or otherwise deemed necessary by the MWABC.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.41 APPROVAL OR DENIAL OF APPLICATION.

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

(1) The applicant has complied with all requirements of the State Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter;

(2) The location is one that can be approved, including but not limited to the requirements of KRS 243.220 and this chapter;

(3) A license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and

(4) There are no other causes for denial of the license.

(B) If the MWABC has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the MWABC may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The MWABC shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the Administrator. Any decision by the Administrator on the application shall be subject to appeal as provided by law.

(C) No license provided for in this chapter shall be issued if there is cause for refusal as specified in KRS 243.450, and the MWABC shall not approve any application for a city license if:

(1) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(2) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted, or engaged in any act for which the revocation of a state or city license is authorized;

(3) The applicant and/or any shareholder, officer, agent, servant, or employee thereof had a state license or city license which was revoked within two (2) years of date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during such time;

(4) The applicant, his agent, or manager has been convicted of a felony.

(5) An applicant who at the time of application for renewal of any license issues hereunder would not be eligible for such license upon a first application.

(6) A partnership unless all the members of the partnership shall be qualified to obtain such a license and whose partnership agreement, along with all subsequent modifications, has been recorded in the County Clerks Office. A copy of the partnership agreement, and all modifications, shall accompany the application.

(7) An applicant premise is located in an area of the city not zoned for commercial use under the zoning laws of the city. This section shall not preclude the issuance of a license on premises for which a proper zoning change has been granted by the City Council.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.42 PAYMENT OF FEES.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.43 POSTING OF LICENSES; PUBLIC RECORD.

Each city license shall be in substantially the same form prescribed by KRS 243.440 for State licenses, and shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate or facsimile of each city license shall remain in the MWABC's office as part of the public record.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.44 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL.

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

(B) Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the MWABC, except that any licensee who is unable to continue in business at the licensed premises may apply to the State Alcoholic Beverage Control Department, pursuant to 804 KAR 4:110, as amended from time to time, to continue such license in dormancy. In the event a period of dormancy is

applied for or granted by the state, to the licensee, the licensee shall immediately notify the MWABC. Upon resumption of business, the licensee shall notify the MWABC and a fee shall be due and payable to the MWABC for the period the license was in dormancy in the same amount due had the license remained active for the same period.

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

(D) Applications for renewal of licenses and payment of the license fee must be on file with the MWABC at least fifteen (15) days, but not more than forty-five (45) days, before the expiration of the licenses for the preceding license period, or the license shall be cancelled. However, the licensee may file a written, verified statement at least fifteen (15) days prior to the expiration date of the license, setting forth facts justifying an extension. The MWABC may then extend the time for filing an application for renewal of the license for a reasonable length of time within the exercise of his or her sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.45 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE AND FOR SUSPENSION OR REVOCATION OF LICENSE.

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

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

(C) Appeals may be taken from decisions of the MWABC to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.1000 and 243.550.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.46 LICENSE CONDITIONS.

In addition to all conditions, rules and regulations contained in the Kentucky Revised Statutes and elsewhere in this chapter all licenses issued hereunder shall be subject to the following conditions:

(A) A distilled spirits or wine retail package license shall be issued only for the portion of the premises located on the street level, and the place or location of the licensed premises shall be written into the license.

(B) A limited retail drink license for the sale of distilled spirits by the drink at restaurants, motels, hotels, and inns shall be issued only on the following conditions:

(1) Hotels, motels or inns must contain not less than fifty (50) sleeping units and have dining facilities for not less than one hundred (100) persons at permanent tables which derive at least seventy percent (70%) of their gross revenue from the sale of food.

(2) Bona fide restaurants shall be restaurants open to the general public having permanent dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least seventy percent (70%) Of their gross revenue from the sale of food; this requirement is and shall be in accord with KRS 242.1295.

(3) Applicants shall obtain and present with the application a Fire Marshal's certificate as to seating capacity of the dining facility, a food service permit from the health department, and an inspection and certification by the city Fire Chief that the premises of the applicant meets all fire, building and safety standards.

(4) All alcoholic beverages sold by the drink must be consumed on the premises.

(5) No licensee shall require a minimum cover charge, or charge admission to the premises.

(6) All licensees shall conduct alcohol awareness training annually for all employees and the certificate for same must be available to the MWABC. All new employees shall receive alcohol awareness training prior to beginning employment.

(7) Each restaurant licensee shall file with the City Clerk and the city's Alcoholic Beverage Control Administrator every six(6) months a report setting out the total gross receipts from the sale of food and the total gross receipts from the sale of alcoholic beverages. The report shall be notarized and sworn to by the person filing the report. In addition, the licensee agrees to provide tax returns, receipt, or any other business record which the MWABC may request in order to verify the information contained in the report.

(8) No license for the sale of alcoholic beverages at retail shall be used for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period. A copy of the applicant's deed, or lease, documenting ownership or lease shall be submitted with the application.

(9) No city license for the sale of alcoholic beverages at retail shall be issued for any premises which are prohibited licenses under any of the provisions of state law.

(10) A license that might be issued shall be refused for the same causes set forth in state law for the refusal of state licenses.

(11) Licenses may be revoked or suspended for the same causes set forth in state law for the suspension or revocation of state license.

(12) No licensee hereunder shall sell any intoxicant or alcoholic beverages behind blinds or screen, but such sales shall be conducted openly and without any attempt to hide it or screen it from the public view.

(13) A licensee which holds a restaurant-wine license or limited retail drink license for hotels, motels, inns and restaurants may not hold for the same premises a distilled spirits and wine retail package license.

(14) No gaming device of any kind shall be permitted upon any licensed premises, nor shall any gambling of any kind be permitted upon such licensed premises.

(15) No live entertainment shall be permitted upon any licensed premises which has more than six (6) members who comprise the act, show, or production. No live entertainment shall be permitted past the hour of 12:00 a.m.(midnight).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03; Am. Ord. 05-27, passed 8-22-05)

SALE OF ALCOHOLIC BEVERAGES

§ 117.55 LICENSE REQUIRED FOR SALE.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.56 HOURS OF SALE.

(A) Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted to remain open during the hours of 6:00 a.m. to 12:00 a.m. (midnight), but shall remain closed during the twenty-four (24) hours of Sunday, Christmas, and at any time when the election polls are open in the precinct in which the licensee's business is located.

(B) Premises for which there has been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 a.m. (midnight), but shall be closed during the twenty-four (24) hours of each Sunday, Christmas and at any time when the election polls are open in the precinct in which the licensee's business is located. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with this subsection.

(C) Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 12:00 midnight each day except that no such sales shall be made during the twenty-four (24) hours of each Sunday, Christmas, or during any time when the polls are open for an election in the precinct in which the license is granted. Premises for which a malt beverage license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or chilled malt beverages are locked up and/or unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

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

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.57 EXCEPTIONS TO MANDATORY CLOSING TIMES; REQUIREMENTS.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.58 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.59 ADVERTISING RESTRICTIONS.

(A) No sign, banner, poster or other type of display advertising which refers, either directly or

indirectly, to alcoholic beverages, shall be displayed on, nor shall it be visible from, the exterior of any premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license. This restriction shall not prevent any licensee from placing in the window of the licensed premises business price cards not larger than two and one-half (2 1/2) inches in size, setting forth the price at which he or she offers alcoholic beverages for sale.

(B) No flashing, oscillating, rotating, shimmering, or other lights demonstrating movement, or the illusion of movement, shall be used to illuminate, or be visible from, the exterior of any premises licensed under this ordinance for premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license.

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.60 RETAIL SALES TO CERTAIN PERSONS PROHIBITED.

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

(A) A minor, except that in any action against a licensee for selling alcoholic beverages to a minor it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. The evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) A person actually or apparently under the influence of alcoholic beverages.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.61 MINORS NOT TO POSSESS OR PURCHASE ALCOHOLIC BEVERAGES NOR TO MISREPRESENT AGE; USE OF FRAUDULENT IDENTIFICATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.62 LICENSEE TO DISPLAY NOTICE REGARDING SALES TO MINORS.

Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows: Persons under the-age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100.00) if they:

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

(For example, see Appendix A)

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.63 ALCOHOLIC BEVERAGES-PREMISES.

(A) Any person or licensee which owns, operates or controls any business establishment which serves or provides any type of alcoholic beverage shall prohibit the removal of any such alcoholic beverage from inside the licensed premise to the outside of the licensed premise if said alcoholic beverage is in any opened container.

(B) Any person or licensee which owns, operates or controls any business establishment where alcoholic beverages are served or provided shall prohibit the drinking of said alcoholic beverages on any parking lot which is adjacent, connected with or used by the patrons of a licensed premises, which is under the direct control of a licensee or which is part of a licensed premises.

(C) No person shall drink any alcoholic beverage on any parking lot which is made available for use by the patrons of a licensed premises, which is under the direct control of a licensee or which is part of a licensed premises.

(D) No person shall consume or be in possession of any alcoholic beverage on licensed premises other than alcoholic beverages sold and dispensed by the licensee. The licensee or his agent shall have the authority to order the immediate removal of any alcoholic beverage carried onto licensed premises in violation of this section.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

REGULATORY LICENSE FEE

§ 117.70 REGULATORY LICENSE FEE IMPOSED.

(A) A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued for the purpose of insuring full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The City Council shall adopt, at the budget adoption for the fiscal year, an annual rate for the regulatory license fee as shall be reasonably estimated to insure full reimbursement to the

city for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to the licenses or fees imposed under the provisions of this chapter.

(B) The regulatory license fee shall be three percent (3%) for the licensing year beginning July 1, 2003, and continuing thereafter until amended or repealed.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.71 PAYMENT.

Payment of the regulatory license fee shall accompany tax returns approved for use by the MWABC and the City Auditor. The return shall be submitted to the MWABC by the twentieth (20th) day of each month for the preceding month's sales. The fraction of the fee required under the provisions of this chapter, represented by one divided by the number of months for which the city license was issued, shall be deducted each month as a credit.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.72 FAILURE TO PAY.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.73 INTEREST ON LATE PAYMENTS.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.74 ADEQUATE RECORD KEEPING REQUIRED.

Every licensee shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the MWABC. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the MWABC, the City Auditor, or any authorized representatives.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.99 PENALTY.

(A) Penalty for nonpayment. If the holder of any license shall fail to pay the regulatory license fee imposed by this chapter within ten (10) days of the due date, an automatic penalty of fifty dollars

(\$50.00) shall be assessed for the first offense. An automatic penalty of one hundred dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of two hundred dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, the MWABC may hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

(B) Infraction constitutes a misdemeanor.

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

(a) For the first offense a fine not to exceed five hundred dollars (\$500.00);

(b) For any subsequent offense a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not more than six (6) months, or both.

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

APPENDIX A: NOTICE TO MINORS, EXAMPLE OF TYPE

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

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

(B) Alternate language: "If you are under twenty-one (21) years old, you can be fined up to one hundred dollars (\$100.00) if you:

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

(Ord. 03-13, passed 8-11-03)

Disclaimer:

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ORDINANCE NO: 07-24

AN ORDINANCE OF THE CITY OF MT. WASHINGTON, BULLITT COUNTY, KENTUCKY, AMENDING ORDINANCE NO: 117, REGARDING ALCOHOL BEVERAGE LICENSES IN THE CITY OF MT. WASHINGTON, KENTUCKY.

WHEREAS, the City desires to amend certain sections of Chapter 117

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MT. WASHINGTON, KENTUCKY THAT:

117.19, titled Administrator to have police power is amended as follows:

- (1) The title of 117.19 shall be changed to read POWERS OF INVESTIGATION AND ENFORCEMENT.
- (2) Ordinance 117.19 is changed to read MWABC and the MWABC's investigators shall have full investigative and enforcement powers required of this office. Any peace officer having proper jurisdiction may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant. Applicants for any license authorized by this chapter shall, by application for said license, be deemed to have consented to said inspections.

117.46(6), shall be amended as follows:

117.46(6), "Server" for purposes of this paragraph shall mean any person employed or working in any capacity, whether as an employee, volunteer help or as a working proprietor, in any premise licensed for the sale of alcoholic beverages where alcoholic beverages are sold for consumption on the premises and whose job duties include the sale, dispensing or service of alcoholic beverages or the management of the licensed premises.

No person shall be employed by a licensed premise as a server unless the server has successfully completed a state approved alcoholic beverage server training program. This training program shall be completed for all newly hired servers within sixty days of the first date of their employment. Servers or managers successfully completing the training shall receive a server certification from the server training program. Each server shall complete recertification at least every three years. Each such licensed premise shall maintain a file at the licensed premise containing the name, date of employment, and proof of certification of each server regulated by this section. This information shall be made available at any reasonable time to the MWABC or any police officer.

117.56 (A) & (B), shall be amended to state as follows:

117.56 (A): Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted shall be

permitted to remain open during the hours of 6:00 a.m. to 12:00 a.m. (midnight), but shall remain closed during the twenty-four (24) hours of Sunday, Christmas, and at any time when the election polls are open in the precinct in which the licensee's business is located. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked and placarded during the aforesaid time the licensee is not permitted to sell alcoholic beverages, the licensee shall be deemed to have complied with this section. Placarded shall indicate that the sale of such goods is prohibited during this period.

117.56 (B): Premises for which there has been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 a.m. (midnight), but shall be closed during the twenty-four hours of each Sunday, Christmas, and at any time when the election polls are open in the precinct in which the licensee's business is located. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked and placarded during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with this section.

117.59, titled Advertising Restrictions shall be amended as follows:

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

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

(C) Former sections A and B are deleted.

117.61(B)(3) shall be amended as follows:

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

117.70(A) shall be amended as follows:

117.70(A), a regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages sold by each establishment licensed to sell alcoholic beverages by the drink for consumption on the premises. Such fee is imposed for the purpose of insuring full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the City. The City council shall adopt, at the budget adoption for the fiscal year, an annual rate for the regulatory license fee as shall be reasonably estimated to insure full reimbursement to the City the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the City. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to the licenses or fees imposed under other provisions of chapter 117.

SECTION 1: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed

SECTION 2: Should any section, clause, line, paragraph, or any other part of the ordinance be held unconstitutional or invalid for any reason, the same shall not affect the remainder of this ordinance.

SECTION 3: This ordinance shall become effective upon its passage and shall be published as required by law.

First reading: November 26, 2007

Second Reading: December 10, 2007

Adopted this 10th day of December, 2007

Joetta Calhoun - Mayor

ATTEST:

Kenneth J. Stovall, Jr. - City Clerk

The result of the roll call vote is as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Shot Dooley	X		
Brent Wheeler	X		
Barry Armstrong	X		
Emily Rucker	X		
Gary Lawson	X		
Greg Gentry	X		

ORDINANCE NO. 05-06

**AN ORDINANCE RELATING TO ALCOHOLIC BEVERAGE CONTROL LICENSING
FOR THE CITY OF MT. WASHINGTON, BULLITT COUNTY, KENTUCKY**

WHEREAS, the Mt. Washington City Code, ' 117.32 (A)(2) LICENSE FEE SCHEDULE contains a fee not in accordance with KRS 243.040(4) MALT BEVERAGE LICENSES-KINDS-FEES, and

WHEREAS, the City Council of the City of Mt. Washington has determined that the license fee for Malt Beverages should coincide with the fees set forth in the Kentucky Revised Statutes, now therefore

BE IT ORDAINED by the City Council of the City of Mt. Washington, Bullitt County, Kentucky, that:

SECTION I:

The Mt. Washington City Code ' 117.32 (A)(2) LICENSE FEE SCHEDULE is amended as follows:

Retail malt beverage license: ~~six hundred dollars (\$600.00) per year.~~ Malt Beverage retailer's license.

(a) New applicants: two hundred dollars (\$200.00) per year.

(b) Applicants for renewal: one hundred fifty dollars (\$150.00) per year.

SECTION II: The effective date of this Ordinance shall be immediately following publication.

SECTION III: This Ordinance shall be published according to law.

SECTION IV: Should any section, clause, line, paragraph or part of this Ordinance be held unconstitutional or invalid for any reason, the same shall not affect the remainder of this Ordinance.

SECTION V: The City Clerk is hereby authorized to publish this Ordinance in accordance with the Kentucky Revised Statutes.

First Reading: February 28, 2005

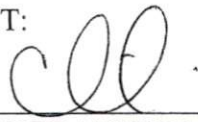
Second Reading: March 14, 2005

Adopted this 14th day of March, 2005.

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2005 DEC 21 A 10:20
ALCOHOLIC
BEVERAGE CONTROL


HON. FRANCIS J. SULLIVAN
MAYOR

ATTEST:



CHRISTI FRANKLIN
CITY CLERK

The result of the roll call vote is as follows:

	YES	NO	ABSTAIN
Joetta Calhoun	X	_____	_____
Lloyd Dooley	X	_____	_____
Sid Griffin	X	_____	_____
Ed Hilbert	X	_____	_____
Ralph Lutes	X	_____	_____
Larry Porter	X	_____	_____

CHAPTER 117: ALCOHOLIC BEVERAGE LICENSES

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BEVERAGE CONTROL

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GENERAL PROVISIONS§ 117.01 TITLE.

This chapter shall be known and may be cited as the Alcoholic Beverage Control Ordinance of the City of Mt. Washington, Kentucky. (Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.02 INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED.

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

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

(C) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter 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. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.03 SCOPE OF COVERAGE.

(A) The propose of this chapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverages pursuant to KRS 242.185(2), and other applicable

law for any hotel, motel, inn or restaurant on its premises. To realize this intent, the city shall implement this chapter in such a manner to insure that:

(1) Hotels, motels, or inns licensed under this chapter shall contain not less than fifty (50) sleeping units and have dining facilities for no less than one hundred (100) persons which dining facilities generate a minimum of seventy percent (70%) of its gross receipts from the sale of food.

(2) Restaurants and dining facilities licensed under this chapter 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.

(3) 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.

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

(B) This chapter shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine by hotels, motels, inns and restaurants where the context permits such applications. Unless the context otherwise admits or requires, the term "alcoholic beverages" shall mean and shall include distilled spirits, wine and malt beverages.

(C) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the city where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance or ordinances of the city nor of any state statutes or regulations.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.05 NOTICE TO STATE ABC BOARD OF FEES LEVIED.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

ADMINISTRATION

§ 117.15 OFFICE OF ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR TO ENFORCE.

(A) The city has heretofore in Ordinance 84-7 created the Office of Alcoholic Beverage Control Administrator (hereafter referred to in this chapter as "MWABC") which is codified in § 31.37. All references to city administrator in KRS Chapters 241 through 244 shall be construed, for the purposes of this chapter, to refer to the Mt. Washington Alcoholic Beverage Control Administrator (MWABC).

(B) Pursuant to KRS 241.160, the Mt. Washington Alcoholic Beverage Control Administrator (MWABC) shall enforce this chapter. (Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.16 CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR (MWABC) TO PROMULGATE REGULATIONS.

The MWABC shall have the power and authority to promulgate such regulations as may be necessary to implement and/or administer this chapter. No regulation of the MWABC shall become effective until it has first been appropriately approved by the City Council. (Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.17 FUNCTIONS: DUTIES AND POWERS.

(A) The functions of the MWABC shall be the same with respect to city licenses and regulations as is the function of the state Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations, except that no regulation of the MWABC shall be less stringent than the state statutes and regulations relating to alcoholic beverage control.

(B) The MWABC shall have the same powers and duties with respect to suspension and revocation for cause of city licenses as the state Alcoholic Beverage Control Board has with respect to state licenses under KRS 241.060. The MWABC, on his or her own initiative, or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

(C) Should the MWABC 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 city Police Department for the purpose of having his or her fingerprints taken.

(D) Appeals from the orders of the MWABC 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 MWABC. Matters at issue shall be heard by the Board as an original proceeding. Appeals from the orders of the MWABC shall be governed by KRS Chapter 13B.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.18 CREATION OF MWABC EMPLOYEES.

(A) The MWABC shall have such investigators and employees as the City Council may deem necessary to enforce this chapter. MWABC investigators and employees shall be appointed and approved by the Mayor and shall serve under the direction of the MWABC, and at the discretion of the MWABC and the Mayor.

(B) The salary of the MWABC investigators and employees shall be set by the City Council.

(C) 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.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.19 ADMINISTRATOR TO HAVE POLICE POWER.

The MWABC and the MWABC's investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the boundaries of the city. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant. Applicants for any license authorized by this chapter shall, by application for said license, be deemed to have consented to said inspections.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.20 RIGHT OF INSPECTION.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

LICENSING REGULATIONS§ 117.30 CLASSIFICATION OF LICENSES.

(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 a corresponding city license for each of the state licenses described in § 117.32. The actions, business, and transactions authorized and permitted thereby and the expiration dates thereof shall be and are the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in § 117.32. The fees for such city licenses shall be the maximum allowed by law as indicated in § 117.32.

(B) No person shall cause, permit, or engage in any of the actions, business, or transactions authorized by such city and state licenses within the city without both a valid city license and a valid state license.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.31 NUMBER OF LICENSES.

The number of retail package, retail drink, retail malt beverage, wholesale malt beverage distributors and wholesale distilled spirits distributor licenses issued in the city shall not exceed the number and type as set forth in KRS Chapter 241, 242, 243 or 244 and all state administrative regulations promulgated pursuant thereto, as may be amended from time to time.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.32 LICENSE FEE SCHEDULE.

(A) The licenses authorized under this subchapter shall be divided into the following categories and the applicant shall, at the time of his or her application, pay to the city the appropriate fee for each license applied for:

(1) Distilled spirits, wine and retail package license: six hundred dollars (\$600.00) per year. Retail package sale of distilled spirits and wine in sealed containers, but not for consumption on the licensed premises.

(2) Retail malt beverage license: six hundred dollars (\$600.00) per year. Malt beverage retailer's license.

(3) Restaurant wine license. Retail sale of wine for consumption on the licensed premises of a bona fide restaurant where distilled spirits for consumption on the premises is not available, or a license has not been issued.

(a) New applicants: six hundred dollars (\$600.00) per year.

(b) Applicants for renewal: four hundred dollars (\$400) per year.

(4) Limited retail restaurant, motel, or inn drink license: six hundred dollars (\$600.00) per year. Retail sale of distilled spirits and wine by the drink for consumption on the licensed premises.

(B) No license shall be issued hereunder until the same has been approved as required by law and by the State Alcoholic Beverage Control Board and by the MWABC. Licenses which have been approved according to law, and which are not prohibited by this chapter, shall then be issued by the City Clerk.

(C) Persons desiring to obtain a license hereunder for only part of a license year shall pay a prorated fee equal to as many twelfths of the annual license fee as there are calendar months remaining in the

license year, including the month in which the license is granted. In no event shall the prorated license fee be less than one-half (1/2) the full annual license fee.

(D) Any license issued to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(E) All licenses shall expire on June 30 of each year.

(F) This section shall not be construed to limit the city's authority under KRS 242.185(4) and §§ 117.33 and 117.34 of this chapter, or any other provision of law, to issue licenses permitted by KRS 243.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.33 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 seventy percent (70%) or more of its gross annual income of the sale of food and has a minimum seating capacity of one hundred (100) persons at permanent tables.

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

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.34 CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE.

(A) The City Council, pursuant to KRS 242.185, has determined that economic hardship exists within the city, as is evidenced by lack of hotels, motels and inns; slow rate of growth; and a lack of commercial and industrial development. The City Council has further determined that the licensing authorization contained in subsections "B" and "C" of this section could aid economic growth. Further, the City Council adopts this chapter, i.e. the "Alcoholic Beverage Control Ordinance of the city," as a comprehensive, regulatory ordinance covering, inter alia, the licensing and operation of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(B) The city shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic

beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages if a malt beverage license is obtained. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons at permanent tables which derive at least seventy percent (70%) of their gross revenue from the sale of food, or bona fide restaurants open to the general public having permanent dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least seventy percent (70%) of their gross revenue from the sale of food; this requirement is and shall be in accord with KRS 242.1295. The fee for such a license shall be six hundred dollars (\$600.00) per annum.

(C) In accordance with KRS 242.185(4), the MWABC is authorized to issue any license permitted by KRS 243.070, and the activity thereby licensed is permitted in according with state law and city law.

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

(E) All regulations which may be issued to administer KRS 242.185, this section of this chapter, and any other provision of this chapter or State law, shall conform to the requirements of KRS 241.190. (Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.35 SPECIAL SUNDAY SALE LICENSES NOT AUTHORIZED.

This chapter shall not be construed to authorize city special Sunday sale retail drink licenses.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.36 LICENSE TERM: RENEWAL.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.37 PRO-RATION; REFUNDS PROHIBITED.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.38 ASSIGNMENT, TRANSFER, CONTINUANCE, LICENSE REPLACEMENT.

(A) Any license issued to any person, corporation, partnership or other entity for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(B) When a license has been lost or destroyed, the MWABC may issue a duplicate or replacement license upon payment of a fee of fifty dollars (\$50.00).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.39 LOCATION RESTRICTED.

(A) Licenses under this chapter shall not authorize the conduct of business in any place other than that specifically described in the original State application and license.

(B) No retail distilled spirits and wine package license shall be granted for a premises which is located within seven hundred (700) feet of any other premises licensed for retail distilled spirits and wine package sales. The distance stated herein shall be measured in accordance with KRS 241.075(3).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.40 APPLICATION, CONTENTS, EMERGENCY ACTION.

(A) Applications for licenses shall be made to the MWABC, in writing signed by the applicant, if an individual, or by a duly authorized agent thereof, if a corporation. Such applications shall be made on forms supplied by the City Clerk and no license shall be issued until completed in full and the appropriate fee therefore has been paid. A written application must be made with the truth of the information, statements, and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of such application shall be prescribed by the regulation of the MWABC; however, provision for the following information, statements, and representations shall and must be included therein;

(1) All information required by KRS 243.380 and 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the inspection of the licensed premises, by the MWABC in addition to their consent that the MWABC may inspect and search the licensed premises at any reasonable time, review financial records and books of the business without notice, confiscate articles found on the premises in violation of any ordinance, statute, or regulation, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder, without first obtaining a search warrant. Additionally, the MWABC may confiscate any contraband property or items. The temporary closure shall remain in effect until review of the alleged violations by the

MWABC, which review shall occur within thirty-six (36) hours (weekends and holidays excluded) of the imposition of the temporary closure.

(3) Documentary evidence of an application for state license, which corresponds to the city license for which the application is being made which shall include a copy of the state issued license shall also accompany the application.

(4) Original applications for any alcoholic beverage license must be accompanied by a copy of notice of the applicant's intention to make application, published once before such application is filed, in the regular edition of the official newspaper of the city, which shall be, "The Pioneer News".

(5) A copy of the applicant's deed, or lease, for the property.

(6) If the applicant is a corporation, a copy of the Articles of Incorporation and a list (including name, address and telephone number) of all stockholders who own more than 40% of the corporate stock. Said list of stockholders must be amended at any time a change occurs which allows a person to hold more than 40% of the corporate stock.

(7) If the applicant is a limited liability company the application must include the name, address, and telephone number of all members of the LLC which list shall be amended upon any change in ownership.

(8) If the applicant is a partnership the application shall include a copy of the partnership agreement. Any changes in the partnership agreement shall be submitted to the City Clerk upon said change.

(B) All applicants, all officers of any applicant corporation, all persons holding forty (40%) percent or more of the stock in an applicant corporation or owners or partners of an applicant partnership or LLC shall each submit to a background check to be conducted by the city ABC Officer. All applicants, officers of any applicant corporation, and persons holding more than forty (40%) percent of the corporate stock shall provide such information as may be required by the city ABC Officer to complete the background check. That background check may include, if deemed necessary by the city ABC Officer, a requirement of fingerprints and a current color photograph of themselves with all other documents as required in the application process or during any subsequent renewal if not previously provided or otherwise deemed necessary by the MWABC.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.41 APPROVAL OR DENIAL OF APPLICATION.

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

(1) The applicant has complied with all requirements of the State Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter;

(2) The location is one that can be approved, including but not limited to the requirements of KRS 243.220 and this chapter;

(3) A license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and

(4) There are no other causes for denial of the license.

(B) If the MWABC has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the MWABC may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The MWABC shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the Administrator. Any decision by the Administrator on the application shall be subject to appeal as provided by law.

(C) No license provided for in this chapter shall be issued if there is cause for refusal as specified in KRS 243.450, and the MWABC shall not approve any application for a city license if:

(1) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(2) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted, or engaged in any act for which the revocation of a state or city license is authorized;

(3) The applicant and/or any shareholder, officer, agent, servant, or employee thereof had a state license or city license which was revoked within two (2) years of date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during such time;

(4) The applicant, his agent, or manager has been convicted of a felony.

(5) An applicant who at the time of application for renewal of any license issues hereunder would not be eligible for such license upon a first application.

(6) A partnership unless all the members of the partnership shall be qualified to obtain such a license and whose partnership agreement, along with all subsequent modifications, has been recorded in the County Clerks Office. A copy of the partnership agreement, and all modifications, shall accompany the application.

(7) An applicant premise is located in an area of the city not zoned for commercial use under the zoning laws of the city. This section shall not preclude the issuance of a license on premises for which a proper zoning change has been granted by the City Council.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.42 PAYMENT OF FEES.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.43 POSTING OF LICENSES; PUBLIC RECORD.

Each city license shall be in substantially the same form prescribed by KRS 243.440 for State licenses, and shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate or facsimile of each city license shall remain in the MWABC's office as part of the public record.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.44 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL.

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

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

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

(D) Applications for renewal of licenses and payment of the license fee must be on file with the MWABC at least fifteen (15) days, but not more than forty-five (45) days, before the expiration of the licenses for the preceding license period, or the license shall be cancelled. However, the licensee may file a written, verified statement at least fifteen (15) days prior to the expiration date of the license, setting forth facts justifying an extension. The MWABC may then extend the time for filing an application for renewal of the license for a reasonable length of time within the exercise of his or her sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.45 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE AND FOR SUSPENSION OR REVOCATION OF LICENSE.

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

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

(C) Appeals may be taken from decisions of the MWABC to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.1000 and 243.550.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.46 LICENSE CONDITIONS.

In addition to all conditions, rules and regulations contained in the Kentucky Revised Statutes and elsewhere in this chapter all licenses issued hereunder shall be subject to the following conditions:

(A) A distilled spirits or wine retail package license shall be issued only for the portion of the premises located on the street level, and the place or location of the licensed premises shall be written into the license.

(B) A limited retail drink license for the sale of distilled spirits by the drink at restaurants, motels, hotels, and inns shall be issued only on the following conditions:

(1) Hotels, motels or inns must contain not less than fifty (50) sleeping units and have dining facilities for not less than one hundred (100) persons at permanent tables which derive at least seventy percent (70%) of their gross revenue from the sale of food.

(2) Bona fide restaurants shall be restaurants open to the general public having permanent dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least seventy percent (70%) Of their gross revenue from the sale of food; this requirement is and shall be in accord with KRS 242.1295.

(3) Applicants shall obtain and present with the application a Fire Marshal's certificate as to seating capacity of the dining facility, a food service permit from the health department, and an inspection and certification by the city Fire Chief that the premises of the applicant meets all fire, building and safety standards.

(4) All alcoholic beverages sold by the drink must be consumed on the premises.

(5) No licensee shall require a minimum cover charge, or charge admission to the premises.

(6) All licensees shall conduct alcohol awareness training annually for all employees and the certificate for same must be available to the MWABC. All new employees shall receive alcohol awareness training prior to beginning employment.

(7) Each restaurant licensee shall file with the City Clerk and the city's Alcoholic Beverage Control Administrator every six (6) months a report setting out the total gross receipts from the sale of food and the total gross receipts from the sale of alcoholic beverages. The report shall be notarized and sworn to by the person filing the report. In addition, the licensee agrees to provide tax returns, receipt, or any other business record which the MWABC may request in order to verify the information contained in the report.

(8) No license for the sale of alcoholic beverages at retail shall be used for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period. A copy of the applicant's deed, or lease, documenting ownership or lease shall be submitted with the application.

(9) No city license for the sale of alcoholic beverages at retail shall be issued for any premises which are prohibited licenses under any of the provisions of state law.

(10) A license that might be issued shall be refused for the same causes set forth in state law for the refusal of state licenses.

(11) Licenses may be revoked or suspended for the same causes set forth in state law for the suspension or revocation of state license.

(12) No licensee hereunder shall sell any intoxicant or alcoholic beverages behind blinds or screen, but such sales shall be conducted openly and without any attempt to hide it or screen it from the public view.

(13) A licensee which holds a restaurant-wine license or limited retail drink license for hotels, motels, inns and restaurants may not hold for the same premises a distilled spirits and wine retail package license.

(14) No gaming device of any kind shall be permitted upon any licensed premises, nor shall any gambling of any kind be permitted upon such licensed premises.

(15) No live entertainment shall be permitted upon any licensed premises which has more than two(2) members who comprise the act, show, or production. No live entertainment shall be permitted past the hour of 12:00 a.m.(midnight).

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

SALE OF ALCOHOLIC BEVERAGES

§ 117.55 LICENSE REQUIRED FOR SALE.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.56 HOURS OF SALE.

(A) Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted to remain open during the hours of 6:00 a.m. to 12:00 a.m. (midnight), but shall remain closed during the twenty-four (24) hours of Sunday, Christmas, and at any time when the election polls are open in the precinct in which the licensee's business is located.

(B) Premises for which there has been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 a.m. (midnight), but shall be closed during the twenty-four (24) hours of each Sunday, Christmas and at any time when the election polls are open in the precinct in which the licensee's business is located. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with this subsection.

(C) Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 12:00 midnight each day except that no such sales shall be made during the twenty-four (24) hours of each Sunday, Christmas, or during any time when the polls are open for an election in the precinct in which the license is granted. Premises for which a malt beverage license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or chilled malt beverages are locked up and/or unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

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

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

(F) Wholesalers shall not deliver alcoholic beverages on Sunday.
(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.57 EXCEPTIONS TO MANDATORY CLOSING TIMES; REQUIREMENTS.

A licensee of a premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.
(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.58 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.59 ADVERTISING RESTRICTIONS.

(A) No sign, banner, poster or other type of display advertising which refers, either directly or indirectly, to alcoholic beverages, shall be displayed on, nor shall it be visible from, the exterior of any premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license. This restriction shall not prevent any licensee from placing in the window of the licensed premises business price cards not larger than two and one-half (2 1/2) inches in size, setting forth the price at which he or she offers alcoholic beverages for sale.

(B) No flashing, oscillating, rotating, shimmering, or other lights demonstrating movement, or the illusion of movement, shall be used to illuminate, or be visible from, the exterior of any premises licensed under this ordinance for premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license.

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.60 RETAIL SALES TO CERTAIN PERSONS PROHIBITED.

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

(A) A minor, except that in any action against a licensee for selling alcoholic beverages to a minor it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. The evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) A person actually or apparently under the influence of alcoholic beverages.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.61 MINORS NOT TO POSSESS OR PURCHASE ALCOHOLIC BEVERAGES NOR TO MISREPRESENT AGE; USE OF FRAUDULENT IDENTIFICATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.62 LICENSEE TO DISPLAY NOTICE REGARDING SALES TO MINORS.

Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows: Persons under the-age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100.00) if they:

(A) Enter licensed premises to buy, or have served to them, alcoholic beverages.

(B) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.

(C) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

(For example, see Appendix A)

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.63 ALCOHOLIC BEVERAGES-PREMISES.

(A) Any person or licensee which owns, operates or controls any business establishment which serves or provides any type of alcoholic beverage shall prohibit the removal of any such alcoholic beverage from inside the licensed premise to the outside of the licensed premise if said alcoholic beverage is in any opened container.

(B) Any person or licensee which owns, operates or controls any business establishment where alcoholic beverages are served or provided shall prohibit the drinking of said alcoholic beverages on any parking lot which is adjacent, connected with or used by the patrons of a licensed premises, which is under the direct control of a licensee or which is part of a licensed premises.

(C) No person shall drink any alcoholic beverage on any parking lot which is made available for use by the patrons of a licensed premises, which is under the direct control of a licensee or which is part of a licensed premises.

(D) No person shall consume or be in possession of any alcoholic beverage on licensed premises other than alcoholic beverages sold and dispensed by the licensee. The licensee or his agent shall have the authority to order the immediate removal of any alcoholic beverage carried onto licensed premises in violation of this section.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

REGULATORY LICENSE FEE

§ 117.70 REGULATORY LICENSE FEE IMPOSED.

(A) A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued for the purpose of insuring full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The City Council shall adopt, at the budget adoption for the fiscal year, an annual rate for the regulatory license fee as shall be reasonably estimated to insure full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to the licenses or fees imposed under the provisions of this chapter.

(B) The regulatory license fee shall be three percent (3%) for the licensing year beginning July 1, 2003, and continuing thereafter until amended or repealed.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.71 PAYMENT.

Payment of the regulatory license fee shall accompany tax returns approved for use by the MWABC and the City Auditor. The return shall be submitted to the MWABC by the twentieth (20th) day of each month for the preceding month's sales. The fraction of the fee required under the provisions of this chapter, represented by one divided by the number of months for which the city license was issued, shall be deducted each month as a credit.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.72 FAILURE TO PAY.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.73 INTEREST ON LATE PAYMENTS.

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

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.74 ADEQUATE RECORD KEEPING REQUIRED.

Every licensee shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the MWABC. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the MWABC, the City Auditor, or any authorized representatives.

(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

§ 117.99 PENALTY.

(A) Penalty for nonpayment. If the holder of any license shall fail to pay the regulatory license fee imposed by this chapter within ten (10) days of the due date, an automatic penalty of fifty dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of one hundred dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of two hundred dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, the MWABC may hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate

findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

(B) Infraction constitutes a misdemeanor.

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

(a) For the first offense a fine not to exceed five hundred dollars (\$500.00);

(b) For any subsequent offense a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not more than six (6) months, or both.

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

(2) In addition to any other penalty provided for herein, any licensee violating any provision of this chapter shall be subject to suspension or revocation of such licensee's license, subsequent to a hearing before the MWABC.
(Ord. 03-13, passed 8-11-03; Am. Ord. 03-24, passed 10-27-03)

APPENDIX A:
NOTICE TO MINORS, EXAMPLE OF TYPE

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

(1) Enter licensed premises to buy, or have served to them, alcoholic beverages.

(2) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.

(3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

(B) Alternate language: "If you are under twenty-one (21) years old, you can be fined up to one hundred dollars (\$100.00) if you:

(1) Go into a business which sells alcoholic beverages for the purpose of buying any alcoholic beverage.

(2) Actually purchase, attempt to purchase, or possess any alcoholic beverage.

(3) Attempt or actually have someone obtain an alcoholic beverage for you.

(4) Misrepresent your age in order to purchase or obtain an alcoholic beverage.
(Ord. 03-13, passed 8-11-03)

ORDINANCE NO: 03-13

**A NEW ORDINANCE RELATED TO THE LICENSING OF HOTELS, RESTAURANTS
AND DINING FACILITIES FOR THE SALE OF ALCOHOLIC BEVERAGES BY THE
DRINK WHEN SUCH FACILITIES SEAT A MINIMUM OF ONE HUNDRED (100)
PERSONS AND SERVE A MINIMUM OF SEVENTY PERCENT (70%) OF GROSS
RECEIPTS FROM THE SALE OF FOOD.**

WHEREAS, KRS 242.185 provides that a city of the Fourth Class may, upon determination by the legislative body that an economic hardship exists within the City and that the sale of alcoholic beverages by the drink could aid economic growth, enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises; and

WHEREAS, the City Counsel of the City of Mt. Washington does find that an economic hardship exists within the City of MT. WASHINGTON, as is evidenced, among other things, by its; lack of hotels, motels, and inns; slow rate of growth; and a lack of commercial and industrial development in or near the City; and

WHEREAS, it is necessary for the City to adopt regulations reasonable calculated to assure the sale of alcoholic beverages by the drink for consumption on the premises of hotels, motels, inns or restaurants; and

WHEREAS, the following table of contents is contained herein solely for the purpose of convenience as a guide to this ordinance, and not be considered a part of the substantive content of the ordinance;

ARTICLE ONE: General Provisions

Section 1.01: Title

Section 1.02: Incorporation of State Law; Compliance Required

Section 1.03: Scope of Coverage

Section 1.04: Deposit of Fees, Fines to General Funds

Section 1.05: Notice to State ABC Board of Fees Levied

ARTICLE TWO: ADMINISTRATION

Section 2.01: Office of Alcoholic Beverage Control Officer to Enforce

Section 2.02: City Alcoholic Beverage Control Administrator (MWABC) to promulgate Regulations.

Section 2.03: Functions: Duties and Powers

Section 2.04: Creation of MWABC Employees

Section 2.05: Administrator to Have Police Power

Section 2.06: Right of Inspection

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ALCOHOLIC
BEVERAGE CONTROL

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ALCOHOLIC
BEVERAGE CONTROL

ARTICLE THREE: Licensing Regulations

- Section 3.01: Classification of Licenses
- Section 3.02: Number of Licenses
- Section 3.03: License Fee Schedule
- Section 3.04: Restaurant Wine License: Fees
- Section 3.05: Consumption of Drink on Premises: License Requires: Fee
- Section 3.06: Special Sunday Sale Licenses Not Authorized
- Section 3.07: License Term: Renewal
- Section 3.08: Pro-Ration; Refunds Prohibited
- Section 3.09: Assignment, Transfer, Continuance, License Replacement
- Section 3.10: Location Restricted
- Section 3.11: Application, Contents, Emergency Action
- Section 3.12: Approval or Denial of Application
- Section 3.13: Payment of Fees
- Section 3.14: Posting of Licenses; Public Record
- Section 3.15: License to Become Void if Business Dormant; License Renewal
- Section 3.16: Causes for Refusal to Issue or Renew License and for Suspension or Revocation of License
- Section 3.17: License Conditions

Article Four: Sale of Alcoholic Beverages

- Section 4.01: License Required for Sale
- Section 4.02: Hours of Sale
- Section 4.03: Exceptions to Mandatory Closing Times; Requirements
- Section 4.04: Confiscation Authorized if Violations Occur
- Section 4.05: Advertising Restrictions
- Section 4.06: Retail Sales to Certain Persons Prohibited
- Section 4.07: Minors not to Possess or Purchase Alcoholic Beverages nor to Misrepresent Age; Use of Fraudulent Identification
- Section 4.08: Licensee to Display Notice Regarding Sales to Minors
- Section 4.09: Alcoholic Beverages-Premises

Article Five: Regulatory Licensee Fee

- Section 5.01: Regulatory License Fee Imposed
- Section 5.02: Payment
- Section 5.03: Failure to Pay
- Section 5.04: Interest on Late Payments
- Section 5.05: Adequate Record keeping Required

Article Six, Penalties

- Section 6.01: Penalty for Nonpayment
- Section 6.02: Infraction Constitutes a Misdemeanor

Article Seven: Effective Date; Severability
Section 7.01 Severability and Interpretation
Section 7.02 Effective Date; Publication and Reading by Summary
Appendix "A" Notice to Minors, Example of Type

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BEVERAGE CONTROL

Now therefore,

BE IT ORDAINED BY THE CITY OF MT. WASHINGTON AS FOLLOWS:

Pursuant to KRS Chapters 83A, 241, 242, 243, 244, and all other applicable law:

ARTICLE ONE: GENERAL PROVISIONS

Section 1.01: TITLE

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

Section 1.02: INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED

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

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

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

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

Section 1.03: SCOPE OF COVERAGE

(A) The propose of this Ordinance is to establish uniform regulations and

requirements for the licensing and regulation of alcoholic beverages pursuant to KRS 242.185(2), and other applicable law for any hotel, motel, inn or restaurant on its premises. To realize this intent, the City shall implement this Ordinance in such a manner to insure that:

- 1.) Hotels, Motels, or Inns licensed under this Ordinance shall contain not less than fifty(50) sleeping units and have dining facilities for no less than one hundred(100) persons which dining facilities generate a minimum of seventy percent(70%) of its gross receipts from the sale of food.
- 2.) 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.
- 3.) 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.
- 4.) Restaurants and dinning 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.

(B) This Ordinance shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine by hotels, motels, inns and restaurants where the context permits such applications. Unless the context otherwise admits or requires, the term "alcoholic beverages" shall mean and shall include distilled spirits, wine and malt beverages.

(C) 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 nor of any State statutes or regulations.

Section 1.04: DEPOSIT OF FEES, FINES TO GENERAL FUNDS

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

Section 1.05: NOTICE TO STATE ABC BOARD OF FEES LEVIED

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

ARTICLE TWO: ADMINISTRATION

Section 2.01: OFFICE OF ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR TO ENFORCE

(A) The city has heretofore in Ordinance 84-7 created the Office of Alcoholic Beverage Control Administrator (hereafter referred to in this Ordinance as "MWABC") which is codified in §31.37 of the Mt. Washington Code. All references to city administrator in KRS Chapters 241 through 244 shall be construed, for the purposes of this ordinance, to refer to the MT. WASHINGTON Alcoholic Beverage Control Administrator (MWABC).

(B) Pursuant to KRS 241.160, the MT. WASHINGTON Alcoholic Beverage Control Administrator (MWABC) shall enforce this ordinance

Section 2.02: CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR (MWABC) TO PROMULGATE REGULATIONS

The MWABC shall have the power and authority to promulgate such regulations as may be necessary to implement and/or administer this Ordinance. No regulation of the MWABC shall become effective until it has first been appropriately approved by the City Council of the City of Mt. Washington.

Section 2.03: FUNCTIONS: DUTIES AND POWERS

(A) The functions of the MWABC shall be the same with respect to City licenses and regulations as is the function of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to State licenses and regulations, except that no regulation of the MWABC shall be less stringent than the State statutes and regulations relating to alcoholic beverage control.

(B) The MWABC shall have the same powers and duties with respect to suspension and revocation for cause of City licenses as the State Alcoholic Beverage Control Board has with respect to State licenses under KRS 241.060. The MWABC, on his or her own initiative, or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this Ordinance.

(C) Should the MWABC 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 Mt. Washington Police Department for the purpose of having his or her fingerprints taken.

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(D) Appeals from the orders of the MWABC 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 MWABC. Matters at issue shall be heard by the Board as an original proceeding. Appeals from the orders of the MWABC shall be governed by KRS Chapter 13B.

Section 2.04: CREATION OF MWABC EMPLOYEES

(A) The MWABC shall have such investigators and employees as the City Council of the CITY OF MT. WASHINGTON may deem necessary to enforce this ordinance. MWABC investigators and employees shall be appointed and approved by the Mayor of the City of MT. WASHINGTON and shall serve under the direction of the MWABC, , and at the discretion of the MWABC and the Mayor of the City of MT. WASHINGTON .

(B) The salary of the MWABC investigators and employees shall be set by the City Council of the City of Mt. Washington.

(C) 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.

Section 2.05: ADMINISTRATOR TO HAVE POLICE POWER

The MWABC and the MWABC's Investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the boundaries of the City. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant. Applicants for any license authorized by this ordinance shall, by application for said license, be deemed to have consented to said inspections.

Section 2.06: RIGHT OF INSPECTION.

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

ARTICLE THREE: LICENSING REGULATIONS

Section 3.01: CLASSIFICATION OF LICENSES

(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 a corresponding city license for each of the state licenses described in the following schedule. The actions, business, and transactions authorized and permitted thereby and the expiration dates thereof shall be and are the same as those of the state licenses to which the City licenses correspond and which are indicated and described in the sections of state law indicated in the following schedule. The fees for such city licenses shall be the maximum allowed by law as indicated in the following schedule.

(B) No person shall cause, permit, or engage in any of the actions, business, or transactions authorized by such city and state licenses within the city without both a valid city license and a valid state license.

Section 3.02: NUMBER OF LICENSES.

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

Section 3.03: LICENSE FEE SCHEDULE

(A) The licenses authorized under this subchapter shall be divided into the following categories and the applicant shall, at the time of his application, pay to the City of Mt. Washington the appropriate fee for each license applied for:

- 1.) **Distilled spirits, wine and retail package license.....\$600.00 per year**
Retail package sale of distilled spirits and wine in sealed containers, but not for consumption on the licensed premises.
- 2.) **Retail malt beverage license.....\$600.00 per year**
Malt beverage retailer's license
- 3.) **Restaurant wine license**
(A) New applicants.....\$600 per year
(B) Applicants for renewal.....\$400 per year
Retail sale of wine for consumption on the licensed premises of a bona fide restaurant where distilled spirits for consumption on the premises in not available, or a license has not been issued.
- 4.) **Limited retail restaurant, motel, or inn drink license.....\$600 per year**
Retail sale of distilled spirits and wine by the drink for consumption on the

licensed premises.

(B) No license shall be issued hereunder until the same has been approved as required by law and by the State Alcoholic Beverage Control Board and by the MWABC. Licenses which have been approved according to law, and which are not prohibited by this ordinance, shall then be issued by the City Clerk.

(C) Persons desiring to obtain a license hereunder for only part of a license year shall pay a prorated fee equal to as many twelfths of the annual license fee as there are calendar months remaining in the license year, including the month in which the license is granted. In no event shall the prorated license fee be less than one-half the full annual license fee.

(D) Any license issued to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(E) All licenses shall expire on June 30 of each year.

(F) This Section shall not be construed to limit the City's authority under KRS 242.185(4) and Section 3.04 and Section 3.05 of this Ordinance, or any other provision of law, to issue licenses permitted by KRS 243

Section 3.04: RESTAURANT WINE LICENSE: FEES

(A) A restaurant wine license may be issued to an applicant who is an owner or lessee of a restaurant which receives seventy percent (70%) or more of its gross annual income of the sale of food and has a minimum seating capacity of one hundred (100) persons at permanent tables.

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

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

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

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

(A) The City Council of the City, pursuant to KRS 242.185, has determined that economic hardship exists within the City, as is evidenced by; lack of hotels, motels and inns; slow rate of growth; and a lack of commercial and industrial development. The City Council has further

determined that the licensing authorization contained in subsections "B" and "C" of this Section could aid economic growth. Further, the City Council adopts this Ordinance, i.e. the "Alcoholic Beverage Control Ordinance of the City of MT. WASHINGTON", as a comprehensive, regulatory ordinance covering, *inter alia*, the licensing and operation of hotels, motels, inns, and restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(B) The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages, i.e. (1) distilled spirits and wine by the drink for consumption on the premises; and (2) malt beverages if a malt beverage license is obtained. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons at permanent tables which derive at least seventy percent (70%) of their gross revenue from the sale of food, or bona fide restaurants open to the general public having permanent dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least seventy percent (70%) of their gross revenue from the sale of food; this requirement is and shall be in accord with KRS 242.1295. The fee for such a license shall be six hundred dollars (\$600.00) per annum.

(C) In accordance with KRS 242.185(4), the MWABC is authorized to issue any license permitted by KRS 243.070, and the activity thereby licensed is permitted in according with State law and City law.

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

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

Section 3.06: SPECIAL SUNDAY SALE LICENSES NOT AUTHORIZED.

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

Section 3.07: LICENSE TERM: RENEWAL.

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

Section 3.08: PRO-RATION; REFUNDS PROHIBITED

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

Section 3.09: ASSIGNMENT. TRANSFER. CONTINUANCE. LICENSE REPLACEMENT.

(A) Any license issued to any person, corporation, partnership or other entity for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises.

(B) When a license has been lost or destroyed, the MWABC may issue a duplicate or replacement license upon payment of a fee of \$50.00.

Section 3.10: LOCATION RESTRICTED

(A) Licenses under this Ordinance shall not authorize the conduct of business in any place other than that specifically described in the original State application and license.

(B) No retail distilled spirits and wine package license shall be granted for a premises which is located within 700 feet of any other premises licensed for retail distilled spirits and wine package sales. The distance Stated herein shall be measured in accordance with KRS 241 .075(3).

Section 3.11: APPLICATION: CONTENTS: EMERGENCY ACTION.

(A) Applications for licenses shall be made to the MWABC, in writing signed by the applicant, if an individual, or by a duly authorized agent thereof, if a corporation. Such applications shall be made on forms supplied by the city clerk and no license shall be issued until completed in full and the appropriate fee therefore has been paid.

A written application must be made with the truth of the information, statements, and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of such application shall be prescribed by the regulation of the MWABC; however, provision for the following information, statements, and representations shall and must be included therein;

(1) All information required by KRS 243.380 and 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the inspection of the licensed premises, by the MWABC in addition to their consent that the MWABC may inspect and search the licensed premises at any reasonable time, review financial records and books of the business without notice, confiscate articles found on the premises in violation of any ordinance, statute, or regulation, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder, without first obtaining a search warrant. Additionally, the MWABC may confiscate any contraband property or items. The temporary closure shall remain in effect until review of the alleged violations by the MWABC, which review shall occur within thirty-six (36) hours (weekends and holidays excluded) of the imposition of the temporary closure.

(3) Documentary evidence of an application for state license, which corresponds to the city license for which the application is being made which shall include a copy of the state issued license shall also accompany the application.

(4) Original applications for any alcoholic beverage license must be accompanied by a copy of notice of the applicant's intention to make application, published once before such application is filed, in the regular edition of the official newspaper of the city, which shall be, "The Pioneer News".

(5) A copy of the applicant's deed, or lease, for the property.

(6) If the applicant is a corporation, a copy of the Articles of Incorporation and a list (including name, address and telephone number) of all stockholders who own more than 5% of the corporate stock. Said list of stockholders must be amended at any time a change occurs which allows a person to hold more than 5% of the corporate stock.

(7) If the applicant is a Limited Liability company the application must include the name, address, and telephone number of all members of the LLC which list shall be amended upon any change in ownership.

(8) If the applicant is a partnership the application shall include a copy of the partnership agreement. Any changes in the partnership agreement shall be submitted to the City Clerk upon said change.

(B) All applicants, all officers of any applicant corporation, all persons holding 5% or more of the stock in an applicant corporation or owners or partners of an applicant partnership or LLC shall each submit fingerprints and a current color photograph of themselves with all other documents as required in the application process or during any subsequent renewal if not previously provided or otherwise deemed necessary by the MWABC.

Section 3.12: APPROVAL OR DENIAL OF APPLICATION.

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

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

(B) If the MWABC has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, the MWABC may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The MWABC shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the Administrator. Any decision by the Administrator on the application shall be subject to appeal as provided by law.

(C) No license provided for in this ordinance shall be issued if there is cause for refusal as specified in KRS 243.450, and the MWABC shall not approve any application for a city license if:

- (1) 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;

- (2) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted, or engaged in any act for which the revocation of a state or city license is authorized;
- (3) the applicant and/or any shareholder, officer, agent, servant, or employee thereof had a state license or city license which was revoked within two years of date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during such time;
- (4) The applicant, his agent, or manager has been convicted of a felony;
- (5) An applicant who at the time of application for renewal of any license issues hereunder would not be eligible for such license upon a first application.
- (6) A partnership unless all the members of the partnership shall be qualified to obtain such a license and whose partnership agreement, along with all subsequent modifications, has been recorded in the Bullitt County Clerks Office. A copy of the partnership agreement, and all modifications, shall accompany the application.
- (7) At the time of the initial application an applicant premise is located within 1000 feet of any school or church.
- (8) An applicant premise is located in an area of the City of Mt. Washington not zoned for commercial use under the zoning laws of the City of Mt. Washington. This section shall not preclude the issuance of a license on premises for which a proper zoning change has been granted by the City Council of the City of Mt. Washington.
- (9) Any statement or representation in the application is false.

Section 3.13: PAYMENT OF FEES.

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

Section 3.14: POSTING OF LICENSES: PUBLIC RECORD

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

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

**Section 3.15: LICENSE TO BECOME VOID IF BUSINESS DORMANT: LICENSE
RENEWAL**

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

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

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

(D) Applications for renewal of licenses and payment of the license fee must be on file with the MWABC at least fifteen (15) days, but not more than forty-five (45) days, before the expiration of the licenses for the preceding license period, or the license shall be cancelled. However, the licensee may file a written, verified Statement at least fifteen (15) days prior to the expiration date of the license, setting forth facts justifying an extension. The MWABC may then extend the time for filing an application for renewal of the license for a reasonable length of time within the exercise of his or her sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

**Section 3.16: CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE:
SUSPENSION OR REVOCATION OF LICENSE**

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

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

(C) Appeals may be taken from decisions of the MWABC to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.1000 and 243.550.

Section 3.18: LICENSE CONDITIONS

In addition to all conditions, rules and regulations contained in the Kentucky Revised Statutes and elsewhere in this ordinance all licenses issued hereunder shall be subject to the following conditions:

(A) A distilled spirits or wine retail package license shall be issued only for the portion of the premises located on the street level, and the place or location of the licensed premises shall be written into the license.

(B) a limited retail drink license for the sale of Distilled Spirits by the drink at restaurants, motels, hotels, and inns shall be issued only on the following conditions:

(1) Hotels, motels or inns must contain not less than fifty (50) sleeping units and have dining facilities for not less than one hundred (100) persons at permanent tables which derive at least seventy percent (70%) of their gross revenue from the sale of food

(2) Bona fide restaurants shall be restaurants open to the general public having permanent dining facilities for not less than one hundred (100) persons. The term "bona fide restaurants" as used in this section shall mean, in addition to having the minimum seating requirements set forth above, restaurants which derive at least seventy percent (70%) Of their gross

revenue from the sale of food; this requirement is and shall be in accord with KRS 242.1295

(3) Applicants shall obtain and present with the application a fire marshal's certificate as to seating capacity of the dining facility, a food service permit from the health department, and an inspection and certification by the city fire chief that the premises of the applicant meets all fire, building and safety standards.

(4) All alcoholic beverages sold by the drink must be consumed on the premises.

(5) No licensee shall require a minimum cover charge, or charge admission to the premises.

(6) All licensees shall conduct alcohol awareness training annually for all employees and the certificate for same must be available to the MWABC. All new employees shall receive alcohol awareness training prior to beginning employment.

(7) Each restaurant licensee shall file with the City Clerk and the city's Alcoholic Beverage Control Administrator every six(6) months a report setting out the total gross receipts from the sale of food and the total gross receipts from the sale of alcoholic beverages. The report shall be notarized and sworn to by the person filing the report. In addition, the licensee agrees to provide tax returns, receipt, or any other business record which the MWABC may request in order to verify the information contained in the report.

(8) No license for the sale of alcoholic beverages at retail shall be used for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period. A copy of the applicant's deed, or lease, documenting ownership or lease shall be submitted with the application.

(9) No city license for the sale of alcoholic beverages at retail shall be issued for any premises which are prohibited licenses under any of the provisions of state law.

(10) A license that might be issued shall be refused for the same causes set forth in state law for the refusal of state licenses.

(11) Licenses may be revoked or suspended for the same causes set forth in state law for the suspension or revocation of state license.

(12) No licensee hereunder shall sell any intoxicant or alcoholic beverages behind blinds or screen, but such sales shall be conducted openly and without any attempt to hide it or screen it from the public view.

(13) A licensee which holds a restaurant-wine license or limited retail drink license for hotels, motels, inns and restaurants may not hold for the same premises a distilled spirits and wine retail package license.

(14) No gaming device of any kind shall be permitted upon any licensed premises, nor shall any gambling of any kind be permitted upon such licensed premises.

(15) No live entertainment shall be permitted upon any licensed premises which has more than two(2) members who comprise the act, show, or production. No live entertainment shall be permitted past the hour of 12:00 a.m.(midnight).

ARTICLE FOUR: SALE OF ALCOHOLIC BEVERAGES

Section 4.01: LICENSE REQUIRED FOR SALE

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

Section 4.02: HOURS OF SALE

(A) Premises for which there has been granted a license for the sale at retail of distilled spirits and wine by the package shall be permitted to remain open during the hours of 6:00 a.m. to 12:00 midnight, but shall remain closed during the twenty-four (24) hours of Sunday, Christmas, and at any time when the election polls are open in the precinct in which the licensee's business is located.

(B) Premises for which there has been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and 12:00 midnight, but shall be closed during the twenty-four (24) hours of each Sunday, Christmas and at any time when the election polls are open in the precinct in which the licensee's business is located. However, if the licensee provides a separate department within the licensed premises capable of being locked and closed off, within which is kept all stocks of alcoholic beverages, and if the department is kept locked during the aforesaid time the licensee is not permitted to remain open to sell alcoholic beverages, the licensee shall be deemed to have complied with this subsection.

(C) Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 12:00 midnight each day except that no such sales shall be made during the twenty-four (24) hours of each Sunday, Christmas, or during any time when the polls are open for an election in the precinct in which the license is granted. Premises for which a malt beverage license has been issued shall be permitted to remain open during the periods such sales are prohibited if all iced or chilled malt beverages are locked up and/or unchilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

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

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

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

Section 4.03: EXCEPTIONS TO MANDATORY CLOSING TIMES: REQUIREMENTS

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

Section 4.04: CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

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

Section 4.05: ADVERTISING RESTRICTIONS

(A) No sign, banner, poster or other type of display advertising which refers, either directly or indirectly, to alcoholic beverages, shall be displayed on, nor shall it be visible from, the exterior of any premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license. This restriction shall not prevent any licensee from placing in the window of the licensed premises business price cards not larger than two and one-half (2 1/2) inches in size, setting forth the price at which he offers alcoholic beverages for sale.

(B) No flashing, oscillating, rotating, shimmering, or other lights demonstrating movement, or the illusion of movement, shall be used to illuminate, or be visible from, the exterior of any premises licensed under this ordinance for premises holding a hotel/motel/inn drink license; or a licensee of a premises holding a restaurant drink license; or a licensee of a premises holding a restaurant wine license .

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

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

Section 4.06: RETAIL SALES TO CERTAIN PERSONS PROHIBITED

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

(A) A minor, except that in any action against a licensee for selling alcoholic beverages to a minor it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase alcoholic beverages. The evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) A person actually or apparently under the influence of alcoholic beverages.

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

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

lot upon which the business establishment is situated.

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

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

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

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

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

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

1.) Owns, occupies, maintains, controls, leases, or exercises

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

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

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

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

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

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

Section 4.08: LICENSEE TO DISPLAY NOTICE REGARDING SALE TO MINORS

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

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

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

(For example, see Appendix A)

Section 4.09: ALCOHOLIC BEVERAGES-PREMISES.

(A) Any person or licensee which owns, operates or controls any business establishment which serves or provides any type of alcoholic beverage shall prohibit the removal of any such alcoholic beverage from inside the licensed premise to the outside of the licensed premise if said alcoholic beverage is in any opened container.

(B) Any person or licensee which owns, operates or controls any business establishment where alcoholic beverages are served or provided shall prohibit the drinking of said alcoholic beverages on any parking lot which is adjacent, connected with or used by the patrons of a licensed premises, which is under the direct control of a licensee or which is part of a licensed premises.

(C) No person shall drink any alcoholic beverage on any parking lot which is made available for use by the patrons of a licensed premises, which is under the direct control of a licensee or which is part of a licensed premises.

(D) No person shall consume or be in possession of any alcoholic beverage on licensed premises other than alcoholic beverages sold and dispensed by the licensee. The licensee or his agent shall have the authority to order the immediate removal of any alcoholic beverage carried onto licensed premises in violation of this section.

ARTICLE FIVE: REGULATORY LICENSE FEE

Section 5.01: REGULATORY LICENSE FEE IMPOSED

(A) A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued for the purpose of insuring full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the City. The City Council shall adopt, at the budget adoption for the fiscal year, an annual rate for the regulatory license fee as shall be reasonably estimated to insure full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the City. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to the licenses or fees imposed under the provisions of this ordinance.

(B) The regulatory license fee shall be three percent (3%) for the licensing year beginning July 1, 10003, and continuing thereafter until amended or repealed.

Section 5.02: PAYMENT

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

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

Section 5.03 FAILURE TO PAY

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

Section 5.04: INTEREST ON LATE PAYMENTS

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

Section 5.05: ADEQUATE RECORD KEEPING REQUIRED

Every licensee shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the MWABC. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the MWABC, the City Auditor, or any authorized representatives.

ARTICLE SIX: PENALTIES

Section 6.01: PENALTY FOR NONPAYMENT.

If the holder of any license shall fail to pay the regulatory license fee imposed by this Section within ten (10) days of the due date, an automatic penalty of fifty dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of one hundred dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of two hundred dollars (\$1000.00) shall be assessed on the third offense. In addition to the monetary penalty, the MWABC may hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

Section 6.02: INFRACTION CONSTITUTES A MISDEMEANOR

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

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

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

ARTICLE SEVEN: EFFECTIVE DATE: SEVERABILITY

Section 7.01: Severability and Interpretation

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

Section 7.02: Effective date: Publication and Reading by Summary

(A) This Ordinance shall become effective upon its passage, approval, and publication as required by law.

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

APPENDIX A:

NOTICE TO MINORS, EXAMPLE OF TYPE

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

- (1) Enter licensed premises to buy, or have served to them, alcoholic beverages.
- (2) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.

- (3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

Alternate language:

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

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

ARTICLE EIGHT: PUBLICATION

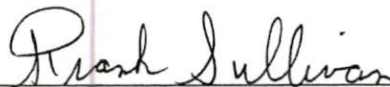
(A) This Ordinance shall be published according to law.

(B) The City Clerk is hereby authorized to publish this Ordinance in accordance with the Kentucky Revised Statutes.

First Reading: July 28, 2003


Second Reading: August 11, 2003

Adopted this 11th day of August, 2003.



HON. FRANK SULLIVAN
MAYOR

ATTEST:



CHRISTI FRANKLIN
CITY CLERK

The result of the roll call vote is as follows:

	YES	NO	ABSTAIN
Sam Beichler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Joetta Calhoun	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lloyd Dooley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sid Griffin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ralph Lutes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Larry Porter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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