

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE 2013-08**

**AN ORDINANCE BY THE CITY OF OAK GROVE, KENTUCKY
ESTABLISHING REGULATIONS FOR SALE OR THE SERVING OF
ALCOHOLIC BEVERAGES LOCATED WITHIN THE CITY.**

WHEREAS, on December 18, 2001, the City of Oak Grove established regulations for the sale of alcoholic beverages and amended said ordinance from time to time thereafter; and

WHEREAS, during the 2013 Legislative session Senate Bill 13 was passed mandating major changes to state forms, state and local license types, procedures, fees and renewal schedules; as well as changes to statutes governing election day sales, local option election laws, public safety and protection provisions, and the three-tier system protections relating to Micro-Breweries by June 25, 2013.

WHEREAS, the City of Oak Grove wishes to comply with Kentucky Revised Statute Chapters 241, 242, 243, 244 and 245 and changes imposed by Senate Bill 13; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OAK GROVE, KENTUCKY AS FOLLOWS:

SECTION 1 – DEFINITIONS

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

- (A) “Alcohol” means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.
- (B) “Alcoholic Beverage” means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
1. Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
 2. Patented, patent, and proprietary medicines;
 3. Toilet, medicinal, and antiseptic preparations and solutions;
 4. Flavoring extracts and syrups;
 5. Denatured alcohol or denatured rum;
 6. Vinegar and preserved sweet cider;
 7. Wine for sacramental purposes; and
 8. Alcohol unfit for beverage purposes that is to be sold for legitimate external use;
- (C) “Board” means the State Alcoholic Beverage Control Board created by KRS 241.030
- (D) “Bottle” means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;

(E) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent;

(F) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;

(G) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;

(H) "Charitable Organization" means a nonprofit entity recognized as exempt from Federal taxation under section 501(c) of the internal revenue code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;

(I) "City Administrator" means city alcoholic beverage control administrator

(J) "Convention Center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;

(K) "Convicted" and "Conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;

(L) "Department" means the Department of Alcoholic Beverage Control;

(M) "Distilled Spirits" or "Spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;

(N) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;

(O) "Limited Restaurant" means:

1. A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a wet or moist territory under KRS 242.1244(2); or

2. A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244;

(P) "Malt Beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt;

(Q) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or track of land, in the same or in different buildings if physical or permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license;

(R) "Private Club" means a nonprofit social, fraternal, military, or political organization, club or entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;

(S) "Public Nuisance" means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;

(T) "Restaurant" means a public facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and beverage receipts from the sale of food;

(U) "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant or employee, of any alcoholic beverage;

(V) "Service Bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests or patrons are prohibited;

SECTION 2 - INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED

(A) The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapters 241, 242, 243, 244, and 245 pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control Law of the City, except as otherwise lawfully provided herein.

(B) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of KRS Chapters 241, 242, 243, 244 and 245 and all statutes, regulations and ordinance applicable thereto.

(C) All prohibitions, restrictions and regulations pertaining to alcoholic beverages found in Kentucky Revised Statutes Chapters 241, 242, 243, 244 and 245 shall apply to alcoholic beverage use in the City.

SECTION 3- SCOPE OF COVERAGE

(A) This section shall be construed to apply to the traffic in Malt Beverage, distilled spirits and wine where the context permits such applications.

(B) Nothing contained in this section shall excuse or relieve the owner, proprietor,

employee or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinance or regulations of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.

SECTION 4 - LICENSES; FEES

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

(A) NQ-1 Retail Drink License, per annum (Combo License/Convention Cntr only)	\$800.00
(B) NQ-2 Restaurant and Motel, per annum (Combo License)	\$210.00
(C) NQ-3 Special Private Club License, per annum (Combo License)	\$315.00
(D) NQ-4 Retail Malt Beverage Drink License, per annum (Malt Beverage only)	\$210.00
(E) NQ Retail Malt Beverage Package License, per annum	\$210.00
(F) Quota Retail Package, per annum (Distilled Spirits/Wine)	\$630.00
(G) Quota Retail Drink License, per annum (Distilled Spirits/Wine)	\$630.00
(H) Special Temporary License, per event (Combo License)	\$105.00
(I) Special Sunday Retail Drink License, per annum	\$105.00
(L) Supplemental Bar License, per annum (Up to 5, no charge additional)	\$210.00
(M) Malt Beverage Brew-on premises License, Per Annum	\$50.00
(N) Malt Beverage Brewers License, Per Annum	\$250.00

SECTION 5 - PRORATION; REFUNDS PROHIBITED

(A) All licenses issued by the City, except special event or temporary licenses, shall be valid for a period of no more than a year.

(B) When any person applies for a new license authorized to be issued under KRS 243.020 to 243.670, he shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(C) The renewal by the City of the certificate or permit of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee. In the event any licensee shall cease doing business for any reason, no refund of the City license fee shall be granted to licensee.

(D) In the event the licensed organization is funded through local public tax dollars, local licensure fees will be waived.

SECTION 6 - TIMES WHEN SALES PERMITTED

(A) A Licensee under this section may sell alcoholic beverages, or do any act authorized by the licensee's license with respect to the sale of alcoholic beverages only during the times hereinafter set out.

(B) Premises for which there has been granted a license for the sale of alcoholic beverages shall be permitted to remain open during the hours of 6:00 a.m. to 3:00 a.m.

(C) During the closing hours, the premises of any licensee for the sale of alcoholic beverages by the drink must be closed to and vacant of all customers and all persons except the licensee and his/her 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.

(D) Any licensee for sales of alcoholic beverages who remains open for business at any time except the hours permitted under this Section shall be deemed guilty of a misdemeanor and 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 ABC Administrator.

SECTION 7- 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 part of the general funds of the City.

SECTION 8- ALCOHOLIC BEVERAGE CONTROL ADMINISTRATORS ESTABLISHED

There is hereby established the office of Alcoholic Beverage Control ("ABC") Administrator and Deputy ABC Administrator as set out in this ordinance.

SECTION 9- ABC ADMINISTRATOR TO ENFORCE

The ABC Administrator or Deputy ABC Administrator shall have the power and authority to promulgate such regulations as may be necessary to implement and/or administer this chapter.

SECTION 10- FUNCTIONS; DUTIES AND POWERS

(A) The functions of the ABC Administrator or Deputy ABC Administrator shall be the same with respect to the City license and regulations, as the function of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations, except that no regulation of the ABC Administrator shall be less stringent than the statutes relating to alcoholic beverage control, or the regulations of the Board.

(B) The ABC Administrator or Deputy ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of City licenses as the State Alcoholic Beverage Control Board has with respect to state licenses under KRS 241.060. The ABC

Administrator or Deputy ABC Administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

SECTION 11- POLICE POWER; ABC ADMINISTRATOR OR DEPUTY ABC ADMINISTRATOR TO HAVE

The ABC Administrator, Deputy ABC Administrator and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be coextensive with the boundaries of the City. They may inspect any premises where alcoholic Beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

SECTION 12- RIGHT OF INSPECTION

The ABC Administrator or their designee shall have available at all reasonable times for his/her inspection, all books and records required to be maintained by licensees under KRS 244.150 and shall receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

SECTION 13- ALL LICENSES REQUIRED

License fees in the amounts herein provided shall be charged for each location in which any person engages in any classification of business authorized under this section, and if more than one classification of business is conducted at any location, a license shall be charged for each of the privileges exercised.

SECTION 14- ASSIGNMENTS AND TRANSFERS

The assignment, transfer, pledge or hypothecation of City licenses shall be governed by the provisions of KRS 243.630 and 243.660.

SECTION 15- LOCATION OF BUSINESS RESTRICTED

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. Any additional building(s) or room(s) attached to licensed premises and requiring separate service bars shall require an additional city license.

SECTION 16- APPLICATION; CONTENTS

An applicant for a license under this chapter shall file with ABC Administrator or Deputy ABC Administrator a copy of his state license application containing the information required by KRS 243.380 and 243.390; as well as a City application. The City application shall include the consent of the applicant permitting the ABC Administrator or Deputy ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, welfare, safety and morals is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the ABC

Administrator or Deputy ABC Administrator within thirty-six (36) hours.

SECTION 17- APPROVAL OR DENIAL OF APPLICATION

(A) If upon review of the application, the ABC Administrator or Deputy ABC Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220, that a license may be issued within the quota limits, and that there is no other cause for denial of the license, the ABC Administrator or Deputy ABC Administrator shall approve the application.

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

SECTION 18- LICENSE RENEWAL

All renewal of licenses and payment of the license fee must be on file with the ABC Administrator thirty (30) days before the expiration of the licenses for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement thirty (30) days prior to the expiration date of the license, setting forth the facts justifying an extension. The ABC Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his/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 19 - CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE

(A) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcoholic beverage licensing, sales, or the administration of licenses.

(B) No license to sell alcoholic beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The ABC Administrator may, in his/her discretion, approve a license

to sell after receiving from the City Finance Director, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Finance Director for taking care of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees, which are due and payable by the licensee.

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

SECTION 20- PAYMENT OF FEES

Upon approval of the application by the ABC Administrator or Deputy ABC Administrator, the applicant shall pay the amount of the license fee(s) provided in this chapter.

SECTION 21- POSTING OF LICENSES; PUBLIC RECORD

Each City license in the same form prescribed by KRS 243.440 for state licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620. An exact duplicate facsimile of each City license shall remain in the ABC Administrators or Deputy ABC Administrators office as part of the public record.

SECTION 22 – 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 Alcoholic Beverage Control Act or by this ordinance from selling alcoholic or malt beverages, except as provided in Section 30 (C), a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license. In addition to other penalties provided for the violation of this ordinance, the ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

(A) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(B) It shall be unlawful for a licensee under this ordinance to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.

(C) It shall be unlawful for any person, holding a 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 KRS 244.130 or any regulation promulgated pursuant to KRS 244.130.

SECTION 23 – 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 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 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 shall be allowed in an amount equal to the cost of the license under the provisions of this chapter.

(B) The regulatory license fee shall be Three Percent (3%) for the fiscal year, beginning and continuing thereafter until amended or repealed.

(C) Payment of such fee shall accompany tax returns approved for use by the City Finance Director and a majority of the City Council. The return shall be submitted to the City Finance Director by the thirtieth (30th) day of each month for the preceding month's sales. The fraction, represented by one divided by the number of months for which the city license was issued, of the fee required under the provisions of this chapter shall be deducted each month as a credit.

SECTION 24 - PENALTY FOR NONPAYMENT

(A) 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 and 00/100 Dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of One Hundred and 00/100 Dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of Two Hundred and 00/100 Dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, ABC Administrator shall hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be 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) Interest shall be assessed upon any past due payments at the rate of twelve (12) percent per annum.

SECTION 25 - MANDATORY TRAINING

(A) Any alcoholic beverage licensee's employee who is presently actively engaged in the sale of alcoholic beverages at retail will attend Server Training in Alcohol Regulations (STAR) as taught by trained State of Kentucky ABC instructors, or any other training as accepted or provided by the local ABC Administrator. All subsequent employees of any alcoholic beverage licensee will attend training within ninety days of employment by the licensee.

(B) Any alcoholic beverage licensee that fails to provide Server Training in Alcohol Regulations (STAR) or any other training as accepted or provided by the local ABC Administrator for any or all of their employees who are presently actively engaged in the sale of

alcoholic beverages at retail will be held in violation of this Ordinance which could result in suspension or revocation of their City of Oak Grove alcoholic beverage license.

SECTION 26 – ADEQUATE RECORDKEEPING 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 ABC Administrator and approved by a majority of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by ABC Administrator, the City Finance Director, or any authorized representatives.

SECTION 27 – UNCONSTITUTIONALITY


Any and all existing ordinances inconsistent with this ordinance are hereby repealed. Should any part of this ordinance be void or unconstitutional, the remaining ordinance shall remain in full force and effect.

Approved on First Reading this 17th day of September, 2013

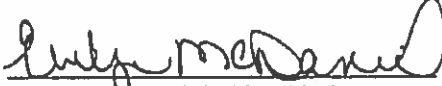
Approved on second reading this 29th day of October, 2013

APPROVED:

ATTEST:



Dan Potter, Mayor
City of Oak Grove, Kentucky



Evelyn McDaniel, City Clerk
City of Oak Grove, Kentucky

PUBLISHED: In the Kentucky New Era, the 8th day of November, 2013.

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE NO. 2011-13**

**A SUMMARY OF AN ORDINANCE AMENDING ORDINANCE NO. 2001-30 TO ALLOW FOR
SUNDAY DRINK SALES BY PRIVATE CLUBS AND EXTENDING THE TIME ON SUNDAY
MORNINGS UNTIL WHICH ALCOHOLIC BEVERAGES CAN BE SOLD**

WHEREAS, on December 18, 2001, the City of Oak Grove passed Ordinance No. 2001-30 which established regulations for the sale of alcoholic beverages within the City; and

WHEREAS, by and thru Ordinance No. 2003-5 and Ordinance No. 2005-12, the City established the Sunday sale of alcoholic beverages, both package sales and by the drink, and set the times during which those sales could occur; and

WHEREAS, the City now wishes to further amend Section I of Ordinance 2001-30, as already amended, to extend the sale deadline of alcohol on Sundays from 2:00 am to 3:00 am, and to allow for Sunday alcohol sales at clubs, both public and private;

WHEREAS, the City Council is of the belief that such an amendment to said Ordinance is in the best interests of the City of Oak Grove and its citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OAK GROVE, KENTUCKY AS FOLLOWS:

Pursuant to KRS 83a.060(9), the following is a summary of City of Oak Grove Ordinance No. 2011-13.

SECTION I - SUNDAY DRINK SALES

On-premises consumption sales are prohibited after ~~2:00~~ 3:00 a.m. on Sundays, except as provided herein. In accordance with the provisions of KRS 244.290(4) and KRS 244.480, and only in the event New Year's Eve falls on a Sunday, the city may permit the sale of distilled spirits, beer or malt beverages, and wine by the drink on said Sunday from 1:00 pm until ~~2:00~~ 3:00 a.m. the following Monday at (1) all clubs, private and public, clubs; and (2) hotels, motels, or restaurants which:

~~(1) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables;~~

~~(2) Receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food. In such an event the city may issue a special limited Sunday liquor by the drink license for these extended hours; and~~

~~(3) Hotels, motels or inns with a minimum of fifty (50) sleeping units.~~

All alcohol sales are prohibited during the hours the polls are open for a primary, regular, school or special election.

SECTION 30 - HOURS OF SALE

(A) Retail Package Sales. 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 ~~2:00~~ 3:00 a.m. on weekdays, but shall remain closed ~~during the twenty-four (24) hours of Sunday, and~~ at any time when the polls are open or any special election is held in the precinct in which the licensee's business is located.

(B) Retail Sale for Consumption on Licensed Premises. Premises which there had 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 ~~2:00~~ 3:00 a.m. each weekday ~~but shall be closed during the twenty-four (24) hours of Sunday~~ and at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate department within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this section.

(C) Retail Sales of Malted Beverages. Retail sales of malt beverages may be made between the hours of 6:00 a.m. and ~~2:00~~ 3:00 a.m. each weekday, 6:00 a.m. to ~~2:00~~ 3:00 a.m. the following Sunday on Saturdays, and 1:00 p.m. until ~~2:00~~ 3:00 a.m. the following Monday on Sundays, but shall remain closed 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 chilled malt beverages are properly placarded indicating that the sale of such goods is prohibited.

UNCONSTITUTIONALITY

Any and all existing ordinances with this ordinance are hereby repealed. Should any part of this ordinance be void or unconstitutional, the remaining sections of the ordinance shall remain in full force and effect.

Approved on First Reading this 4th day of October, 2011.

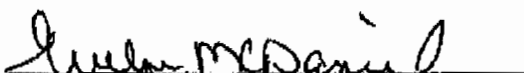
Approved on Second Reading this 18th day of October, 2011.

APPROVED:



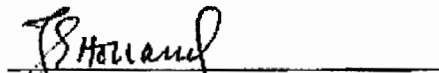
DAN POTTER, Mayor
City of Oak Grove, Kentucky

ATTEST:



EVELYN MCDANIEL, City Clerk/CAO
City of Oak Grove, Kentucky

PREPARED BY:



Jason E. Holland
Oak Grove City Attorney

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE 2011-02**

**AN ORDINANCE BY THE CITY OF OAK GROVE, KENTUCKY
AMENDING ORDINANCE 2005-11 ESTABLISHING REGULATIONS
FOR THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY.**

SECTION 1 – TITLE

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

SECTION 2 - INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED

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

(B) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and regulations of the state applicable thereto. Penalty, see Section 41.

(C) All prohibitions, restrictions and regulations pertaining to alcoholic beverages found at KRS 244.010-244.600 shall apply to alcoholic beverage use in the City.

SECTION 3 - SCOPE OF COVERAGE

(A) This chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such applications.

(B) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinances or regulations of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.

SECTION 4 - 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.

SECTION 5 - NOTICE OF FEES; ASSESSMENTS TO STATE ALCOHOL BEVERAGE BOARD

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.

SECTION 6 - ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; OFFICE ESTABLISHED

There is established the office of Alcoholic Beverage Control Administrator "ABC ADMINISTRATOR" as set out in this ordinance.

SECTION 7 – ABC ADMINISTRATOR TO ENFORCE

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

SECTION 8 - FUNCTIONS; DUTIES AND POWERS

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

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

SECTION 9 - POLICE POWER; ABC ADMINISTRATOR TO HAVE

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

SECTION 10 - RIGHT OF INSPECTION

The ABC Administrator shall have available at all reasonable times for his/her inspection, all books and records required to be maintained by licensees under KRS 244.150 and shall receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

SECTION 11 - NUMBER OF LICENSES

The number of retail package, retail drink, retail beer, wholesale beer distributors and wholesale distilled spirits distributors' licenses issued in the City will not exceed the number and

type as set forth in KRS Chapter 241, 242, 243 or 244 and all administrative regulations promulgated pursuant thereto, as may be amended from time to time.

SECTION 12 - DISTILLED SPIRITS AND WINE LICENSES; FEES

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

License Type

(A)	Wholesaler's license, per annum	\$100
(B)	Retail Package license, per annum	\$600
(C)	Special Temporary license, per month or part of a month	\$100
(D)	Retail Drink license, per annum	\$600

SECTION 13 - MALT BEVERAGE LICENSES, FEES

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

License Type

(A)	Distributor's license, per annum	\$100
(B)	Retailer's license, per annum	
	(1) New applicant	\$200
	(2) Renewal	\$200

SECTION 14 - RESTAURANT WINE LICENSE; FEE

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

(B) The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2) and 241.065.

(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 \$200, per annum.

SECTION 15 - SPECIAL PRIVATE CLUB LICENSE; FEES

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

(B)	<u>License Type</u>	<u>Fee</u>
	Special Private Club License, per annum	\$300

SECTION 16 - CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE

The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages by the drink for consumption on the premises. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units or having dining facilities for not less than 100 persons, or bona fide restaurants open to the general public having dining facilities for not less than 100 persons. The fee for such a license shall be \$600.00 per annum.

SECTION 17 - ALL LICENSES REQUIRED

License fees in the amounts herein provided shall be charged for each location in which any person engages in any classification of business authorized under this section, and if more than one classification of business is conducted at any location, a license shall be charged for each of the privileges exercised.

SECTION 18 - SPECIAL SUNDAY SALE LICENSES UNAUTHORIZED

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

SECTION 19 - LICENSE TERM; RENEWAL

Applications for renewal of licenses required by this section shall be made for each fiscal year beginning the first day of July and attending through the last day of June of the succeeding year. Applications for renewal are to be filed with ABC Administrator thirty (30) days prior to expiration.

SECTION 20 - 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 reason, no refund of the City license fee shall be

granted to licensee.

SECTION 21 - ASSIGNMENTS TRANSFER

The assignment, transfer, pledge or hypothecation of City licenses shall be governed by the provisions of KRS 243.630, 243.650 and 243.660.

SECTION 22 - LOCATION OF BUSINESS RESTRICTED

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. Any additional buildings or rooms attached to licensed premises and requiring separate service bars shall require an additional City license.

SECTION 23 - APPLICATION; CONTENTS

An applicant for a license under this chapter shall file with ABC Administrator a copy of his state license application containing the information required by KRS 243.380 and 243.390. The City application shall include the consent of the applicant permitting the ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the ABC Administrator within thirty-six (36) hours.

SECTION 24 - APPROVAL OR DENIAL OF APPLICATION

(A) If upon review of the application, the ABC Administrator determined that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220, that a license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and that there are no other cause for denial of the license, the ABC Administrator shall approve the application.

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

SECTION 25 - PAYMENT OF FEES

Upon approval of the application by the ABC Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order or cash.

SECTION 26 - POSTING OF LICENSES; PUBLIC RECORD

Each City license in the same form prescribed by KRS 243.440 for state licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate facsimile of each City license shall remain in the ABC Administrator's office as part of the public record.

SECTION 27 - LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL

(A) Conditions for dormancy. Under the provisions of KRS, all administrative regulations promulgated pursuant to the provisions of KRS and this chapter, as 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 90 days. Because a licensee, like any other business, may have his business interrupted by situations not under his control, various exceptions to this dormancy rule are included in subsection (B).

(B) Surrender of license and exceptions. Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the ABC Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, as amended from time to time, to continue such license in dormancy. In the event a period of dormancy is applied for or granted by the State ABC Department to the licensee, a licensee shall immediately notify the ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the ABC Administrator and a fee shall be due and payable to the ABC Administrator for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(C) Applications based on pending construction of development. Applications approved by the ABC Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premises involved. The ABC Administrator may grant extensions, as is deemed appropriate in exercise of his/her sound discretion based on facts and circumstances surrounding each request.

(D) Renewals, time for filing. All renewal of licenses and payment of the license fee must be on file with the ABC Administrator thirty (30) days before the expiration of the licenses for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement thirty (30) days prior to the expiration date of the license, setting forth the facts justifying an extension. The ABC Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his/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 28 - CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE

(A) State Law References. Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcoholic beverage licensing, sales, or the administration of licenses.

(B) Delinquent Taxes or Fees. No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The ABC Administrator may, in his/her discretion, approve a license to sell after receiving from the City Finance Director, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Finance Director for taking care of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees, which are due and payable by the licensee.

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

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

SECTION 29 - LICENSES REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverages, nor manufacture or transport any alcoholic or malt beverages in the City unless said person shall first procure and have issued a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter. Those ordinances, statutes and regulations shall be hereinafter singularly and collectively referred to as the Alcoholic Beverage Control Law.

SECTION 30 – HOURS OF SALE

(A) Retail Package Sales. 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 3:00 a.m. on weekdays, 6:00 a.m. to 3:00 a.m. the following Sunday on Saturdays, and 1:00 p.m. until 3:00 a.m. the following Monday on Sundays, but shall remain closed any time when the polls are open or any special election is held in the precinct in which the licensee's business is located.

(B) Retail Sale for Consumption on Licensed Premises. Premises which there had 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 3:00 a.m. each weekday but shall be closed during the twenty-four (24) hours of Sunday, and at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate department within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

(C) Retail Sales of Malted Beverages. Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 2:00 a.m. each weekday, 6:00 a.m. to 3:00 a.m. the following Sunday on Saturdays, and 1:00 p.m. until 3:00 a.m. the following Monday on Sundays, but shall remain closed 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) Violations; Revocation or Suspension of Licenses. Any licensee for sales of alcoholic beverages by the drink or package who remains open for business at any time except the hours permitted under this Section shall be deemed guilty of a misdemeanor and 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 ABC Administrator.

(E) Control of Premises During Closing Hours. During the closing hours, 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 his/her 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) Wholesale Deliveries on Sundays Prohibited. There shall be no delivery by wholesalers of alcoholic or malt beverages on Sunday.

SECTION 31 – HOURS OF SALE, EXCEPTIONS; REQUIREMENTS

A premise that can demonstrate to the ABC Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than fifty percent (50%) of the total gross sales of the licensed restaurant for the annual license period 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 32 – CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic or malt 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 Alcoholic Beverage Control Act or by this ordinance from selling alcoholic or malt beverages, except as provided in Section 30 (C), a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license. In addition to other penalties provided for the violation of this ordinance, the ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

- (A) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.
- (B) It shall be unlawful for a licensee under this ordinance to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.
- (C) It shall be unlawful for any person, holding a license under this chapter to sell alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.
- (E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 or any regulation promulgated pursuant to KRS 244.130.

SECTION 33 - RETAIL SALES TO CERTAIN PERSONS PROHIBITED

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

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

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

(C) An habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Except as provided in Section 3 (B), anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or of a felony within the preceding twelve (12) months.

**SECTION 34 - 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)(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, wine or malt beverages, or any of his clerks, servants, agents or employees 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 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 do not remain in barroom or dance area of restaurants. Minors not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the local 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 area provided for dancing. The term "restaurant" for the purposes of this subsection means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a "restaurant" within the meaning of this chapter.

(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 clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he:

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

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

(D)(1) In the event a violation occurs under the provisions of this section, the ABC Administrator shall 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 activity prohibited by the aforementioned sections occurred, may have his license suspended or revoked.

- (2) 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 ABC Administrator, 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 35 - LICENSEE TO DISPLAY NOTICE AS TO 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 and 00/100 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.

SECTION 36 – 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 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 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 shall be allowed in an amount equal to the cost of the license under the provisions of this chapter.

(B) The regulatory license fee shall be Three Percent (3%) for the fiscal year, beginning July 1, 2002 and continuing thereafter until amended or repealed.

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

SECTION 37 - FAILURE TO PAY

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

SECTION 38 - INTEREST ON LATE PAYMENT

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

SECTION 39 – ADEQUATE RECORDKEEPING 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 ABC Administrator and approved by a majority of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by ABC Administrator, the City Finance Director, or any authorized representatives.

SECTION 40 - 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 and 00/100 Dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of One Hundred and 00/100 Dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of Two Hundred and 00/100 Dollars (\$200.00) shall be assessed on the third offense. In addition to the

monetary penalty, ABC Administrator shall hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be 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 41 – UNCONSTITUTIONALITY

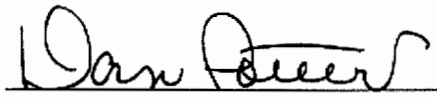
Any and all existing ordinances inconsistent with this ordinance are hereby repealed. Should any part of this ordinance be void or unconstitutional, the remaining ordinance shall remain in full force and effect.

Approved on First Reading this 4th day of January, 2011

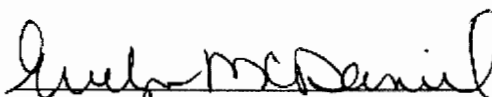
Approved on Second Reading this 1st day of February, 2011

APPROVED:

ATTEST:



Dan Potter, Mayor
City of Oak Grove, Kentucky



Evelyn McDaniel, City Clerk
City of Oak Grove, Kentucky

PUBLISHED: In summary in the Kentucky New Era, the 8th day of February, 2011.

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE NO. 2007-07**

**AN ORDINANCE BY THE CITY OF OAK GROVE, KENTUCKY
AMENDING ORDINANCE NO. 2001-30 IN ORDER TO HAVE THE
MAYOR SERVE AS ABC ADMINISTRATOR**

SECTION 1 – TITLE

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

SECTION 2 - INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED

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

(B) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and regulations of the state applicable thereto. Penalty, see Section 41.

(C) All prohibitions, restrictions and regulations pertaining to alcoholic beverages found at KRS 244.010-244.600 shall apply to alcoholic beverage use in the City.

SECTION 3 - SCOPE OF COVERAGE

(A) This chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such applications.

(B) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinances or regulations of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.

SECTION 4 - 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.

SECTION 5 - NOTICE OF FEES; ASSESSMENTS TO STATE ALCOHOL BEVERAGE BOARD

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.

SECTION 6 - ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; OFFICE ESTABLISHED

There is established the office of Alcoholic Beverage Control Administrator "ABC ADMINISTRATOR" as set out in this ordinance.

SECTION 7 -- MAYOR TO SERVE AS ABC ADMINISTRATOR ABC ADMINISTRATOR TO ENFORCE

The Mayor shall serve as the ABC Administrator. The ABC Administrator shall have the power and authority to promulgate such regulations as may be necessary to implement and/or administer this chapter.

SECTION 8 - FUNCTIONS; DUTIES AND POWERS

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

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

~~**SECTION 9 -- POLICE POWER; ABC ADMINISTRATOR TO HAVE**~~

~~The ABC Administrator, and his investigators, shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the boundaries of the City. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a Search Warrant.~~

SECTION 40 9 - RIGHT OF INSPECTION

The ABC Administrator shall have available at all reasonable times for his/her inspection, all books and records required to be maintained by licensees under KRS 244.150 and shall receive copies of all reports submitted by licensees to the State

SECTION 4410 - NUMBER OF LICENSES

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

SECTION 42-11 - DISTILLED SPIRITS AND WINE LICENSES; FEES

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

License Type

(A)	Wholesaler's license, per annum	\$100
(B)	Retail Package license, per annum	\$600
(C)	Special Temporary license, per month or part of a month	\$100
(D)	Retail Drink license, per annum	\$600

SECTION 43 12- MALT BEVERAGE LICENSES, FEES

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

License Type

(A)	Distributor's license, per annum	\$100
(B)	Retailer's license, per annum	
	(1) New applicant	\$200
	(2) Renewal	\$200

SECTION 44-13 - RESTAURANT WINE LICENSE; FEE

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

at tables.

(B) The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2) and 241.065.

(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 \$200, per annum.

SECTION 14-14- SPECIAL PRIVATE CLUB LICENSE; FEES

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

(B)	<u>License Type</u>	<u>Fee</u>
	Special Private Club License, per annum	\$300

SECTION 15-15- CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE

The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages by the drink for consumption on the premises. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units or having dining facilities for not less than 100 persons, or bona fide restaurants open to the general public having dining facilities for not less than 100 persons. The fee for such a license shall be \$600.00 per annum.

SECTION 16-16 - ALL LICENSES REQUIRED

License fees in the amounts herein provided shall be charged for each location in which any person engages in any classification of business authorized under this section, and if more than one classification of business is conducted at any location, a license shall be charged for each of the privileges exercised.

SECTION 17-17- SPECIAL SUNDAY SALE LICENSES UNAUTHORIZED

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

SECTION 19 ~~18~~- LICENSE TERM; RENEWAL

Applications for renewal of licenses required by this section shall be made for each fiscal year beginning the first day of July and attending through the last day of June of the succeeding year. Applications for renewal are to be filed with ABC Administrator thirty (30) days prior to expiration.

SECTION 20 ~~19~~- 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 reason, no refund of the City license fee shall be granted to licensee.

SECTION 24 ~~20~~- ASSIGNMENTS TRANSFER

The assignment, transfer, pledge or hypothecation of City licenses shall be governed by the provisions of KRS 243.630, 243.650 and 243.660.

SECTION 22 ~~21~~- LOCATION OF BUSINESS RESTRICTED

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. Any additional buildings or rooms attached to licensed premises and requiring separate service bars shall require an additional City license.

SECTION 23 ~~22~~- APPLICATION; CONTENTS

An applicant for a license under this chapter shall file with ABC Administrator a copy of his state license application containing the information required by KRS 243.380 and 243.390. The City application shall include the consent of the applicant permitting the ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the ABC Administrator within thirty-six (36) hours.

SECTION 24 ~~23~~- APPROVAL OR DENIAL OF APPLICATION

(A) If upon review of the application, the ABC Administrator determined that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220, that a license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and that there are no other cause for denial of the license, the ABC Administrator shall approve the application.

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

SECTION 25 24- PAYMENT OF FEES

Upon approval of the application by the ABC Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order or cash.

SECTION 26 25- POSTING OF LICENSES; PUBLIC RECORD

Each City license in the same form prescribed by KRS 243.440 for state licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate facsimile of each City license shall remain in the ABC Administrator's office as part of the public record.

SECTION 27 26- LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL

(A) Conditions for dormancy. Under the provisions of KRS, all administrative regulations promulgated pursuant to the provisions of KRS and this chapter, as 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 90 days. Because a licensee, like any other business, may have his business interrupted by situations not under his control, various exceptions to this dormancy rule are included in subsection (B).

(B) Surrender of license and exceptions. Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the ABC Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, as amended from time to time, to continue such license in dormancy. In the event a period of dormancy is applied for or granted by the State ABC Department to the licensee, a licensee shall immediately notify the ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the ABC Administrator and a fee shall be due and payable to the ABC Administrator for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(C) Applications based on pending construction of development. Applications

approved by the ABC Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premises involved. The ABC Administrator may grant extensions, as is deemed appropriate in exercise of his/her sound discretion based on facts and circumstances surrounding each request.

(D) Renewals, time for filing. All renewal of licenses and payment of the license fee must be on file with the ABC Administrator thirty (30) days before the expiration of the licenses for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement thirty (30) days prior to the expiration date of the license, setting forth the facts justifying an extension. The ABC Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his/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 28 27- CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE;
SUSPENSION OR REVOCATION OF LICENSE**

(A) State Law References. Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcoholic beverage licensing, sales, or the administration of licenses.

(B) Delinquent Taxes or Fees. No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The ABC Administrator may, in his/her discretion, approve a license to sell after receiving from the City Finance Director, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Finance Director for taking care of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees, which are due and payable by the licensee.

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

derived from the sale of alcoholic beverages.

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

SECTION ~~29~~28 - LICENSES REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverages, nor manufacture or transport any alcoholic or malt beverages in the City unless said person shall first procure and have issued a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter. Those ordinances, statutes and regulations shall be hereinafter singularly and collectively referred to as the Alcoholic Beverage Control Law.

SECTION ~~30~~29 - HOURS OF SALE

(A) Retail Package Sales. 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 2:00 a.m. on weekdays, but shall remain closed during the twenty-four (24) hours of Sunday, and at any time when the polls are open or any special election is held in the precinct in which the licensee's business is located.

(B) Retail Sale for Consumption on Licensed Premises. Premises which there had 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 2:00 a.m. each weekday but shall be closed during the twenty-four (24) hours of Sunday, and at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate department within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

(C) Retail Sales of Malted Beverages. Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 2:00 a.m. each weekday but no such sales shall be made during the twenty-four (24) hours of Sunday, 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) Violations; Revocation or Suspension of Licenses. Any licensee for sales of alcoholic beverages by the drink or package who remains open for business at any time except the hours permitted under this Section shall be deemed guilty of a

misdemeanor and 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 ABC Administrator.

(E) Control of Premises During Closing Hours. During the closing hours, 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 his/her 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) Wholesale Deliveries on Sundays Prohibited. There shall be no delivery by wholesalers of alcoholic or malt beverages on Sunday.

SECTION 34 30– HOURS OF SALE, EXCEPTIONS; REQUIREMENTS

A premise that can demonstrate to the ABC Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than fifty percent (50%) of the total gross sales of the licensed restaurant for the annual license period 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 32 31– CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic or malt 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 Alcoholic Beverage Control Act or by this ordinance from selling alcoholic or malt beverages, except as provided in Section 30 (C), a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license. In addition to other penalties provided for the violation of this ordinance, the ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

- (A) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.
- (B) It shall be unlawful for a licensee under this ordinance to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.
- (C) It shall be unlawful for any person, holding a license under this chapter to sell alcoholic beverages of any kind, to give away or offer to give away anything

tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.

- (E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 or any regulation promulgated pursuant to KRS 244.130.

SECTION 33 32- RETAIL SALES TO CERTAIN PERSONS PROHIBITED

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

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

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

- (C) An habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

- (D) Except as provided in Section 3 (B), anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or of a felony within the preceding twelve (12) months.

SECTION 34 33- 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) (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, wine or malt beverages, or any of his clerks, servants, agents or employees 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 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 do not remain in barroom or dance area of restaurants. Minors not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the local 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 area provided for dancing. The term "restaurant" for the purposes of this subsection means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a "restaurant" within the meaning of this chapter.
- (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 clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he:

- (1) Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and permits any person under the age of twenty-one (21) to possess or consume any alcoholic beverage on the premises; or
 - (2) Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and allows or permits any person under the age of twenty-one (21) years to remain on the premises while that person possesses or consumes any alcoholic beverage.
- (D) (1) In the event a violation occurs under the provisions of this section, the ABC Administrator shall 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 activity prohibited by the aforementioned sections occurred, may have his license suspended or revoked.
- (2) 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 ABC Administrator, 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 ~~35~~ 34- LICENSEE TO DISPLAY NOTICE AS TO 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 and 00/100 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.

SECTION ~~36~~ 35- 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 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 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 shall be allowed in an amount equal to the cost of the license under the provisions of this chapter.

(B) The regulatory license fee shall be Three Percent (3%) for the fiscal year, beginning July 1, 2002 and continuing thereafter until amended or repealed.

Payment of such fee shall accompany tax returns approved for use by the City

Finance Director and a majority of the City Council. The return shall be submitted to the City Finance Director by the twentieth (20th) day of each month for the preceding month's sales. The fraction, represented by one divided by the number of months for which the city license was issued, of the fee required under the provisions of this chapter shall be deducted each month as a credit.

SECTION 37 36- FAILURE TO PAY

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

SECTION 38 37- INTEREST ON LATE PAYMENT

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

SECTION 39 38- ADEQUATE RECORDKEEPING 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 ABC Administrator and approved by a majority of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by ABC Administrator, the City Finance Director, or any authorized representatives.

SECTION 40 39- 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 and 00/100 Dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of One Hundred and 00/100 Dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of Two Hundred and 00/100 Dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, ABC Administrator shall hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be 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 41 40- UNCONSTITUTIONALITY

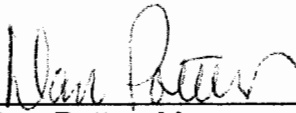
Any and all existing ordinances inconsistent with this ordinance are hereby repealed. Should any part of this ordinance be void or unconstitutional, the remaining ordinance shall remain in full force and effect.

Approved on First Reading this 6th day of March , 2007.

Approved on Second Reading this 20th day of March , 2007.

APPROVED:

ATTEST:



Dan Potter, Mayor
City of Oak Grove, Kentucky



Dianna Alfarano, CAO/City Clerk
City of Oak Grove, Kentucky

PUBLISHED: In summary in the Kentucky New Era, the ____ day of _____, 2007.

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE NO. 2005-12**

**A SUMMARY OF AN ORDINANCE AMENDING ORDINANCE NO. 2003-05 AN
ORDINANCE RELATING TO THE SALE OF DISTILLED SPIRITS, BEER OR MALT
BEVERAGES AND WINE BY THE DRINK ON SUNDAYS AND TO REQUIRE
MANDATORY SERVER TRAINING.**

WHEREAS, the City of Oak Grove wishes to implement the sale of retail package distilled spirits, beer or malt beverages and wine on Sundays; and

WHEREAS, The City of Oak Grove wishes to implement a mandatory training program for the servers of alcoholic beverages; and

WHEREAS, the City Council of the City of Oak Grove is of the opinion that implementing an ordinance allowing the sale of packaged distilled spirits, beer or malt beverages and wine on Sundays and implementing a mandatory training program for servers of alcoholic beverages would be in the best interest of the citizens of Oak Grove.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OAK GROVE, KENTUCKY
AS FOLLOWS:**

**PURSUANT TO KRS §83a.060(9) the following is a summary of City of Oak Grove
Ordinance No. 2005-11.**

SECTION I - SUNDAY DRINK SALES

~~Package sales are prohibited on Sundays.~~ On-premises consumption sales are prohibited after 2:00 a.m. on Sundays, except as provided herein. In accordance with the provisions of KRS 244.290(4) and KRS 244.480, and only in the event New Year's Eve falls on a Sunday, the city may permit the sale of distilled spirits, beer or malt beverages, and wine by the drink on said Sunday from 1:00 p.m. until 2:00 a.m. the following Monday at hotels, motels, or restaurants which:

- (1) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and
- (2) Receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food. In such an event the city may issue a special limited Sunday liquor by the drink license for these extended hours.
- (3) Hotels, motels or inns with a minimum of fifty (50) sleeping units.

All alcohol sales are prohibited during the hours the polls are open for a primary, regular, school or special election.

SECTION II - MANDATORY TRAINING

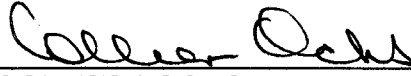
A. Any alcoholic beverage licensee's employee who is presently actively engaged in the sale of alcoholic beverages at retail will attend Server Training in Alcohol Regulations (STAR) as taught by trained State of Kentucky ABC instructors. All subsequent employees of any alcoholic beverage licensee will attend training within ninety days of employment by the licensee.

B. Any alcoholic beverage licensee that fails to provide Server Training in Alcohol Regulations (STAR) for any or all of their employees who are presently actively engaged in the sale of alcoholic beverages at retail will be held in violation of this Ordinance which could result in suspension or revocation of their City of Oak Grove alcoholic beverage license.

Approved on First Reading this 6th day of September, 2005.

Approved on Second Reading this 18th day of October, 2005.

APPROVED:



COLLEEN OCHS, Mayor

ATTEST:



DIANNA ALFARANO, CAO/City Clerk

PUBLISHED: In full in the Kentucky New Era this ____ day of _____, 2005.

15 6 V 4-103 (11)

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE NO. 2005-11**

**A SUMMARY OF AN ORDINANCE AMENDING ORDINANCE NO. 2002-04 AN
ORDINANCE ESTABLISHING REGULATIONS FOR THE SALE OF ALCOHOLIC
BEVERAGES WITHIN THE CITY**

WHEREAS, the City of Oak Grove wishes to implement the sale of retail package distilled spirits, beer or malt beverages and wine on Sundays; and

WHEREAS, the City Council of the City of Oak Grove is of the opinion that implementing an ordinance allowing the sale of packaged distilled spirits, beer or malt beverages and wine on Sundays would be in the best interests of the citizens of Oak Grove.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OAK GROVE, KENTUCKY
AS FOLLOWS:**

**PURSUANT TO KRS §83a.060(9) the following is a summary of City of Oak Grove
Ordinance No. 2005-11.**

SECTION 30 – HOURS OF SALE

(A) Retail Package Sales. 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 2:00 a.m. on weekdays, ~~but shall remain closed during the twenty-four (24) hours of Sunday~~ 6:00 a.m. to 2:00 a.m. the following Sunday on Saturdays, and 1:00 p.m. until 2:00 a.m. the following Monday on Sundays, and at but shall remained closed any time when the polls are open or any special election is held in the precinct in which the licensee's business is located.

(B) Retail Sale for Consumption on Licensed Premises. Premises which there had 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 2:00 a.m. each weekday but shall be closed during the twenty-four (24) hours of Sunday, and at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate department within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

(C) Retail Sales of Malted Beverages. Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 2:00 a.m. each weekday, ~~but no such sales shall be made during the twenty-four (24) hours of Sunday~~, 6:00 a.m. to 2:00 a.m. the following Sunday on Saturdays, and 1:00 p.m. until 2:00 a.m. the following Monday on Sundays, ~~during~~ but shall remained closed 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

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE NO. 2003-05**

**AN ORDINANCE RELATING TO THE SALE OF DISTILLED SPIRITS,
BEER OR MALT BEVERAGES AND WINE BY THE DRINK ON
SUNDAYS.**

WHEREAS, the City of Oak Grove wishes to implement the limited sale of distilled spirits, beer or malt beverages and wine by the drink on Sundays; and

WHEREAS, the City Council of the City of Oak Grove is of the opinion that implementing an ordinance allowing limited Sunday Sales of alcoholic beverages by the drink would be in the best interests of the citizens of Oak Grove.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF OAK GROVE,
KENTUCKY AS FOLLOWS:**

SECTION I

Package sales are prohibited on Sundays. On-premises consumption sales are prohibited after 2:00 a.m. on Sundays, except as provided herein. In accordance with the provisions of KRS 244.290(4) and KRS 244.480, and only in the event New Year's Eve falls on a Sunday, the city may permit the sale of distilled spirits, beer or malt beverages, and wine by the drink on said Sunday from 1:00 p.m. until 2:00 a.m. the following Monday at hotels, motels, or restaurants which:

- (1) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and
- (2) Receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food. In such an event the city may issue a special limited Sunday liquor by the drink license for these extended hours.
- (3) Hotels, motels or inns with a minimum of fifty (50) sleeping units.

All alcohol sales are prohibited during the hours the polls are open for a primary, regular, school or special election.

SECTION II

The City shall have the power and authority to issue a Limited Sunday Retail Drink License upon proper application and the payment of the prescribed fee:

Limited Sunday Retail Drink license, per annum	\$100.00
--	----------

SECTION III

The licensee shall ensure that at the closing hour all patrons shall have vacated the premises. Operators and their employees, engaged in regular and ordinary post-closing activities, may be on the premises during the closed hours, provided that the licensee has complied with Section IV below.

SECTION IV

If a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section.

SECTION V

Should any portion of this ordinance be declared void or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION VI

This ordinance shall become effective upon passage and publication.

Approved on First Reading this 21st day of May, 2003.

Approved on Second Reading this 3rd day of June, 2003.

APPROVED:

ATTEST:

Colleen Ochs
Colleen Ochs, Mayor
City of Oak Grove, Kentucky

Dianna Alfarano
Dianna Alfarano, City Clerk
City of Oak Grove, Kentucky

REC'D - 6 10 2003

Published in full in the Kentucky New Era on the 10th day of June, 2003.

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE NO. 2002-10**

**A SUMMARY OF ORDINANCE NO. 2002-10 AMENDING
ORDINANCE NO. 2001-30 ESTABLISHING REGULATIONS FOR
THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY.**

2002-01-14
10:52

WHEREAS, on December 18, 2001, the City of Oak Grove passed Ordinance No. 2001-30 which established regulations for the sale of alcoholic beverages within the City; and

WHEREAS, since the passage of said ordinance, the City has determined that it should amend the fees charged for the annual Malt Beverage Distributors License, the Special Temporary Retail Malt Beverage License, and the Special Temporary Wine License; and

WHEREAS, the City Council is of the opinion that the implementation of said changes would be in the best interest of the City of Oak Grove, and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OAK GROVE, KENTUCKY AS FOLLOWS:

PURSUANT TO KRS §83a.060(9) the following is a summary of City of Oak Grove Ordinance No. 2002-10.

SECTION 12 - DISTILLED SPIRITS AND WINE LICENSES; FEES

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

License Type

(A) Wholesaler's license, per annum	\$100.00
(B) Retail Package license, per annum	\$600.00
(C) Special Temporary <u>Distilled Spirits</u> license, per month or part of a month <u>event</u>	\$100.00
(D) Retail Drink license, per annum	\$600.00
(E) <u>Special Temporary Wine License, per event</u>	<u>\$50.00</u>

SECTION 13 - MALT BEVERAGE LICENSES, FEES

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

License Type

(A) Distributor's license, per annum	\$100.00	<u>\$400.00</u>
(B) Retailer's license, per annum		
(1) New applicant		\$200.00
(2) Renewal		\$200.00
(C) <u>Special Temporary Malt Beverage license,</u> <u>per event</u>		<u>\$ 25.00</u>

Approved on First Reading this 7th day of May, 2002.

Approved on Second Reading this 21st day of May, 2002.

APPROVED:



Jean Leavell, Mayor
City of Oak Grove, Kentucky

ATTEST:



Colleen Ochs, City Clerk
City of Oak Grove, Kentucky

PREPARED BY:



Jason E. Holland
Oak Grove City Attorney
P. O. Box 648
Hopkinsville, KY 42241-0648

PUBLISHED: In summary in the Kentucky New Era, the ____ day of _____, 2002.

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE NO. 2002-10**

**AN ORDINANCE AMENDING ORDINANCE NO. 2001-30
ESTABLISHING REGULATIONS FOR THE SALE OF ALCOHOLIC
BEVERAGES WITHIN THE CITY.**

WHEREAS, on December 18, 2001, the City of Oak Grove passed Ordinance No. 2001-30 which established regulations for the sale of alcoholic beverages within the City; and

WHEREAS, since the passage of said ordinance, the City has determined that it should amend the fees charged for the annual Malt Beverage Distributors License, the Special Temporary Retail Malt Beverage License, and the Special Temporary Wine License; and

WHEREAS, the City Council is of the opinion that the implementation of said changes would be in the best interest of the City of Oak Grove, and its citizens.

NOW THEREFORE, be it ordained by the City of Oak Grove, Kentucky as follows:

SECTION 1 – TITLE

This chapter shall be known and may be cited as the Alcoholic Beverage Ordinance of the City of Oak Grove, Kentucky.

SECTION 2 - INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED

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

(B) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and regulations of the state applicable thereto. Penalty, see Section 41.

(C) All prohibitions, restrictions and regulations pertaining to alcoholic beverages found at KRS 244.010-244.600 shall apply to alcoholic beverage use in the City.

SECTION 3 - SCOPE OF COVERAGE

(A) This chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such applications.

(B) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinances or regulations of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.

SECTION 4 - 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.

SECTION 5 - NOTICE OF FEES; ASSESSMENTS TO STATE ALCOHOL BEVERAGE BOARD

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.

SECTION 6 - ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; OFFICE ESTABLISHED

There is established the office of Alcoholic Beverage Control Administrator "ABC ADMINISTRATOR" as set out in this ordinance.

SECTION 7 - ABC ADMINISTRATOR TO ENFORCE

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

SECTION 8 - FUNCTIONS; DUTIES AND POWERS

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

(B) The ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of city licenses as the State Alcoholic Beverage Control Board has with respect to state licenses under KRS 241.060. The ABC Administrator, on his own initiative or on the complaint of any person, may institute

proceedings to revoke or suspend any license issued under this chapter.

SECTION 9 - POLICE POWER; ABC ADMINISTRATOR TO HAVE

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

SECTION 10 - RIGHT OF INSPECTION

The ABC Administrator shall have available at all reasonable times for his/her inspection, all books and records required to be maintained by licensees under KRS 244.150 and shall receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

SECTION 11 - NUMBER OF LICENSES

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

SECTION 12 - DISTILLED SPIRITS AND WINE LICENSES; FEES

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

License Type

(A) Wholesaler's license, per annum	\$100.00
(B) Retail Package license, per annum	\$600.00
(C) Special Temporary <u>Distilled Spirits</u> license, per month or part of a month <u>event</u>	\$100.00
(D) Retail Drink license, per annum	\$600.00
(E) <u>Special Temporary Wine license, per event</u>	<u>\$50.00</u>

SECTION 13 - MALT BEVERAGE LICENSES, FEES

The City shall have the power and authority to issue the following kinds of malt

beverage licenses upon proper application and the payment of prescribed fee:

<u>License Type</u>			
(A)	Distributor's license, per annum	\$100.00	<u>\$400.00</u>
(B)	Retailer's license, per annum		
	(1) New applicant		\$200.00
	(2) Renewal		\$200.00
(C)	<u>Special Temporary Malt Beverage license,</u> <u>per event</u>		<u>\$25.00</u>

SECTION 14 - RESTAURANT WINE LICENSE; FEE

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

(B) The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2) and 241.065.

(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 \$200, per annum.

SECTION 15 - SPECIAL PRIVATE CLUB LICENSE; FEES

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

(B)	<u>License Type</u>	<u>Fee</u>
	Special Private Club License, per annum	\$300

**SECTION 16 - CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED;
FEE**

The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages by the drink for consumption on the premises. The licenses shall, only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units or having dining facilities for not less than 100 persons, or bona fide restaurants open to the general public having dining facilities for not less than 100 persons. The fee for such a license shall be \$600.00 per annum.

SECTION 17 - ALL LICENSES REQUIRED

License fees in the amounts herein provided shall be charged for each location in which any person engages in any classification of business authorized under this section, and if more than one classification of business is conducted at any location, a license shall be charged for each of the privileges exercised.

SECTION 18 - SPECIAL SUNDAY SALE LICENSES UNAUTHORIZED

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

SECTION 19 - LICENSE TERM; RENEWAL

Applications for renewal of licenses required by this section shall be made for each fiscal year beginning the first day of July and attending through the last day of June of the succeeding year. Applications for renewal are to be filed with ABC Administrator thirty (30) days prior to expiration.

SECTION 20 - 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 reason, no refund of the City license fee shall be granted to licensee.

SECTION 21 - ASSIGNMENTS AND TRANSFERS

The assignment, transfer, pledge or hypothecation of City licenses shall be governed by the provisions of KRS 243.630, 243.650 and 243.660.

SECTION 22 - LOCATION OF BUSINESS RESTRICTED

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. Any additional buildings or rooms attached to licensed premises and requiring separate service bars shall require an additional City license.

SECTION 23 – APPLICATION; CONTENTS

An applicant for a license under this chapter shall file with ABC Administrator a copy of his state license application containing the information required by KRS 243.380 and 243.390. The City application shall include the consent of the applicant permitting the ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the ABC Administrator within thirty-six (36) hours.

SECTION 24 - APPROVAL OR DENIAL OF APPLICATION

(A) If upon review of the application, the ABC Administrator determined that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220, that a license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and that there are no other cause for denial of the license, the ABC Administrator shall approve the application.

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

SECTION 25 - PAYMENT OF FEES

Upon approval of the application by the ABC Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order or cash.

SECTION 26 - POSTING OF LICENSES; PUBLIC RECORD

Each City license in the same form prescribed by KRS 243.440 for state licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate facsimile of each City license shall remain in the ABC Administrator's office as part of the public record.

**SECTION 27 - LICENSE TO BECOME VOID IF BUSINESS
DORMANT; LICENSE RENEWAL**

(A) Conditions for dormancy. Under the provisions of KRS, all administrative regulations promulgated pursuant to the provisions of KRS and this chapter, as 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 90 days. Because a licensee, like any other business, may have his business interrupted by situations not under his control, various exceptions to this dormancy rule are included in subsection (B).

(B) Surrender of license and exceptions. Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the ABC Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, as amended from time to time, to continue such license in dormancy. In the event a period of dormancy is applied for or granted by the State ABC Department to the licensee, a licensee shall immediately notify the ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the ABC Administrator and a fee shall be due and payable to the ABC Administrator for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(C) Applications based on pending construction or development. Applications approved by the ABC Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premises involved. The ABC Administrator may grant extensions, as is deemed appropriate in exercise of his/her sound discretion based on facts and circumstances surrounding each request.

(D) Renewals, time for filing. All renewal of licenses and payment of the license fee must be on file with the ABC Administrator thirty (30) days before the expiration of the licenses for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement thirty (30) days prior to the expiration date of the license, setting forth the facts justifying an extension. The ABC Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his/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 28 - CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE;
SUSPENSION OR REVOCATION OF LICENSE**

(A) State Law References. Causes for refusal to issue or renew a license and

for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcoholic beverage licensing, sales, or the administration of licenses.

(B) Delinquent Taxes or Fees. No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The ABC Administrator may, in his/her discretion, approve a license to sell after receiving from the City Finance Director, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Finance Director for taking care of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees, which are due and payable by the licensee.

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

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

SECTION 29 - LICENSES REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverages, nor manufacture or transport any alcoholic or malt beverages in the City unless said person shall first procure and have issued a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter. Those ordinances, statutes and regulations shall be hereinafter singularly and collectively referred to as the Alcoholic Beverage Control Law.

SECTION 30 – HOURS OF SALE

(A) Retail Package Sales. 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 2:00 a.m. on weekdays, but shall remain closed during the twenty-four (24) hours of Sunday, and at any time when

the polls are open or any special election is held in the precinct in which the licensee's business is located.

(B) Retail Sale for Consumption on Licensed Premises. Premises which there had 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 2:00 a.m. each weekday but shall be closed during the twenty-four (24) hours of Sunday, and at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate department within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

(C) Retail Sales of Malted Beverages. Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 2:00 a.m. each weekday but no such sales shall be made during the twenty-four (24) hours of Sunday, 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) Violations; Revocation or Suspension of Licenses. Any licensee for sales of alcoholic beverages by the drink or package who remains open for business at any time except the hours permitted under this Section shall be deemed guilty of a misdemeanor and 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 ABC Administrator.

(E) Control of Premises During Closing Hours. During the closing hours, 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 his/her 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) Wholesale Deliveries on Sundays Prohibited. There shall be no delivery by wholesalers of alcoholic or malt beverages on Sunday.

SECTION 31 – HOURS OF SALE, EXCEPTIONS; REQUIREMENTS

A premise that can demonstrate to the ABC Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than fifty percent (50%) of the total gross sales of the licensed restaurant for the annual license period 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 32 – CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic or malt 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 Alcoholic Beverage Control Act or by this ordinance from selling alcoholic or malt beverages, except as provided in Section 30 (C), a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license. In addition to other penalties provided for the violation of this ordinance, the ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

- (A) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.
- (B) It shall be unlawful for a licensee under this ordinance to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.
- (C) It shall be unlawful for any person, holding a license under this chapter to sell alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.
- (E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 or any regulation promulgated pursuant to KRS 244.130.

SECTION 33 - RETAIL SALES TO CERTAIN PERSONS PROHIBITED

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

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

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

(C) An habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Except as provided in Section 3 (B), anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or of a felony within the preceding twelve (12) months.

SECTION 34 - 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) (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, wine or malt beverages, or any of his clerks, servants, agents or employees 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 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 do not remain in barroom or dance area of restaurants. Minors not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the local 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 area provided for dancing. The term "restaurant" for the purposes of this subsection means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a "restaurant" within the meaning of this chapter.

(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 clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he:

- (1) Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and permits any person under the age of twenty-one (21) to possess or consume any alcoholic beverage on the premises; or
 - (2) Owns, occupies, maintains, controls, leases, or exercises control or ownership of real estate, including but not limited to the buildings and other structures located thereon, and allows or permits any person under the age of twenty-one (21) years to remain on the premises while that person possesses or consumes any alcoholic beverage.
- (D) (1) In the event a violation occurs under the provisions of this section, the ABC Administrator shall 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 activity prohibited by the aforementioned sections occurred, may have his license suspended or revoked.
- (2) 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 ABC Administrator, 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 35 - LICENSEE TO DISPLAY NOTICE AS TO 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 and 00/100 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.

SECTION 36 – 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 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 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 shall be allowed in an amount equal to the cost of the license under the provisions of this chapter.

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

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

SECTION 37 - FAILURE TO PAY

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

SECTION 38 - INTEREST ON LATE PAYMENT

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

SECTION 39 – ADEQUATE RECORDKEEPING 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 ABC Administrator and

approved by a majority of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by ABC Administrator, the City Finance Director, or any authorized representatives.

SECTION 40 - 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 and 00/100 Dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of One Hundred and 00/100 Dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of Two Hundred and 00/100 Dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, ABC Administrator shall hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

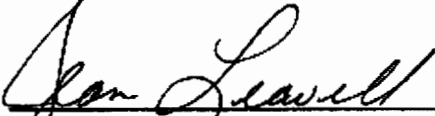
SECTION 41 - UNCONSTITUTIONALITY

Any and all existing ordinances inconsistent with this ordinance are hereby repealed. Should any part of this ordinance be void or unconstitutional, the remaining ordinance shall remain in full force and effect.

Approved on First Reading this 7th day of May, 2002.

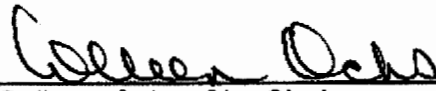
Approved on Second Reading this 21st day of May, 2002.

APPROVED:



Jean Leavell, Mayor
City of Oak Grove, Kentucky

ATTEST:



Colleen Ochs, City Clerk
City of Oak Grove, Kentucky

PUBLISHED: In summary in the Kentucky New Era, the _____ day of _____, 2002.

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE NO. 2002-04**

**A SUMMARY OF ORDINANCE NO. 2002-04 AMENDING
ORDINANCE NO. 2001-30 ESTABLISHING REGULATIONS FOR
THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY.**

WHEREAS, on December 18, 2001 the City of Oak Grove, Kentucky passed Ordinance No. 2001-30 regulating the sale of alcoholic beverages within the City; and

WHEREAS, since the date of passage of said ordinance, the City has determined the effective date of July 1, 2002 is impractical, as all current such licenses are due to expire on June 30, 2002, leaving a small period during which no one will have their licenses; and

WHEREAS, an amended effective date of June 1, 2002 will allow all such businesses to renew their licenses after the effective date of this ordinance; and

WHEREAS, the City Council of the City of Oak Grove is of the opinion an amendment of this ordinance in such a fashion is in the best interests of the City and its residents;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OAK GROVE, KENTUCKY AS FOLLOWS:

PURSUANT TO KRS §83a.060(9) the following is a summary of City of Oak Grove Ordinance No. 2002-04.

SECTION I – AMENDMENT

SECTION 36 – REGULATORY LICENSE FEE IMPOSED

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

SECTION II - UNCONSTITUTIONALITY

Any and all existing ordinances inconsistent with this ordinance are hereby repealed. Should any part of this ordinance be void or unconstitutional, the remaining ordinance shall remain in full force and effect.

Approved on First Reading this 5th day of February, 2002.

Approved on Second Reading this 19th day of February, 2002.

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

SECTION 29 - LICENSES REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverages, nor manufacture or transport any alcoholic or malt beverages in the City unless said person shall first procure and have issued a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter. Those ordinances, statutes and regulations shall be hereinafter singularly and collectively referred to as the Alcoholic Beverage Control Law.

SECTION 30 – HOURS OF SALE

(A) Retail Package Sales. 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 2:00 a.m. on weekdays, but shall remain closed during the twenty-four (24) hours of Sunday, and at any time when the polls are open or any special election is held in the precinct in which the licensee's business is located.

(B) Retail Sale for Consumption on Licensed Premises. Premises which there had 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 2:00 a.m. each weekday but shall be closed during the twenty-four (24) hours of Sunday, and at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate department within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

(C) Retail Sales of Malted Beverages. Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 2:00 a.m. each weekday but no such sales shall be made during the twenty-four (24) hours of Sunday, 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) Violations; Revocation or Suspension of Licenses. Any licensee for sales of alcoholic beverages by the drink or package who remains open for business at any time except the hours permitted under this Section shall be deemed guilty of a misdemeanor and 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 ABC Administrator.

(E) Control of Premises During Closing Hours. During the closing hours, 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 his/her 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) Wholesale Deliveries on Sundays Prohibited. There shall be no delivery by wholesalers of alcoholic or malt beverages on Sunday.

SECTION 31 – HOURS OF SALE, EXCEPTIONS; REQUIREMENTS

A premise that can demonstrate to the ABC Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than fifty percent (50%) of the total gross sales of the licensed restaurant for the annual license period 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 32 – CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic or malt 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 Alcoholic Beverage Control Act or by this ordinance from selling alcoholic or malt beverages, except as provided in Section 30 (C), a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license. In addition to other penalties provided for the violation of this ordinance, the ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

- (A) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.
- (B) It shall be unlawful for a licensee under this ordinance to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.
- (C) It shall be unlawful for any person, holding a license under this chapter to sell alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.

- (E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 or any regulation promulgated pursuant to KRS 244.130.

SECTION 33 - RETAIL SALES TO CERTAIN PERSONS PROHIBITED

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

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

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

(C) An habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Except as provided in Section 3 (B), anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or of a felony within the preceding twelve (12) months.

SECTION 34 - 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) (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, wine or malt beverages, or any of his clerks, servants, agents or employees 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 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 do not remain in barroom or dance area of restaurants. Minors

not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the local 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 area provided for dancing. The term "restaurant" for the purposes of this subsection means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a "restaurant" within the meaning of this chapter.

- (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 clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he:

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

- (D)
 - (1) In the event a violation occurs under the provisions of this section, the ABC Administrator shall 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 activity prohibited by the aforementioned sections occurred, may have his license suspended or revoked.
 - (2) 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 ABC Administrator, 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 35 - LICENSEE TO DISPLAY NOTICE AS TO 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 and 00/100 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.

SECTION 36 – 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 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 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 shall be allowed in an amount equal to the cost of the license under the provisions of this chapter.

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

(C) Payment of such fee shall accompany tax returns approved for use by the City Finance Director and a majority of the City Council. The return shall be submitted to the City Finance Director by the twentieth (20th) day of each month for the preceding

month's sales. The fraction, represented by one divided by the number of months for which the city license was issued, of the fee required under the provisions of this chapter shall be deducted each month as a credit.

SECTION 37 - FAILURE TO PAY

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

SECTION 38 - INTEREST ON LATE PAYMENT

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

SECTION 39 – ADEQUATE RECORDKEEPING 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 ABC Administrator and approved by a majority of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by ABC Administrator, the City Finance Director, or any authorized representatives.

SECTION 40 - 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 and 00/100 Dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of One Hundred and 00/100 Dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of Two Hundred and 00/100 Dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, ABC Administrator shall hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be 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 41 – UNCONSTITUTIONALITY

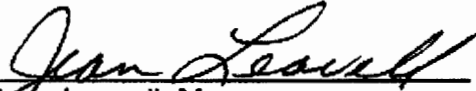
Any and all existing ordinances inconsistent with this ordinance are hereby repealed. Should any part of this ordinance be void or unconstitutional, the remaining ordinance shall remain in full force and effect.

Approved on First Reading this 5th day of February, 2002.

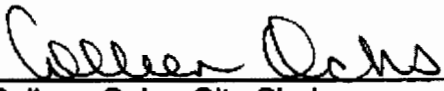
Approved on Second Reading this 19th day of February, 2002.

APPROVED:

ATTEST:




Jean Leavell, Mayor
City of Oak Grove, Kentucky



Colleen Ochs, City Clerk
City of Oak Grove, Kentucky

PREPARED BY:



Jason E. Holland
Oak Grove City Attorney
P. O. Box 648
Hopkinsville, KY 42241-0648

PUBLISHED: In summary in the Kentucky New Era, the ____ day of _____, 2001.

2002 FEB -6 A 9 52

**CITY OF OAK GROVE, KENTUCKY
ORDINANCE NO. 2001- 30**

**AN ORDINANCE BY THE CITY OF OAK GROVE, KENTUCKY
ESTABLISHING REGULATIONS FOR THE SALE OF ALCOHOLIC
BEVERAGES WITHIN THE CITY.**

SECTION 1 - TITLE

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

SECTION 2 - INCORPORATION OF STATE LAW; COMPLIANCE REQUIRED

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

(B) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and regulations of the state applicable thereto. Penalty, see Section 41.

(C) All prohibitions, restrictions and regulations pertaining to alcoholic beverages found at KRS 244.010-244.600 shall apply to alcoholic beverage use in the City.

SECTION 3 - SCOPE OF COVERAGE

(A) This chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such applications.

(B) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinances or regulations of the city or of any statutes of the state relating to violations pertaining to alcoholic beverages.

SECTION 4 - 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.

SECTION 5 - NOTICE OF FEES; ASSESSMENTS TO STATE ALCOHOL BEVERAGE BOARD

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.

SECTION 6 - ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; OFFICE ESTABLISHED

There is established the office of Alcoholic Beverage Control Administrator "ABC ADMINISTRATOR" as set out in this ordinance.

SECTION 7 - ABC ADMINISTRATOR TO ENFORCE

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

SECTION 8 - FUNCTIONS; DUTIES AND POWERS

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

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

SECTION 9 - POLICE POWER; ABC ADMINISTRATOR TO HAVE

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

SECTION 10 - RIGHT OF INSPECTION

The ABC Administrator shall have available at all reasonable times for his/her inspection, all books and records required to be maintained by licensees under KRS 244.150 and shall receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

SECTION 11 - NUMBER OF LICENSES

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

SECTION 12 - DISTILLED SPIRITS AND WINE LICENSES; FEES

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

License Type

(A)	Wholesaler's license, per annum	\$100
(B)	Retail Package license, per annum	\$600
(C)	Special Temporary license, per month or part of a month	\$100
(D)	Retail Drink license, per annum	\$600

SECTION 13 - MALT BEVERAGE LICENSES, FEES

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

License Type

(A)	Distributor's license, per annum	\$100
(B)	Retailer's license, per annum	
	(1) New applicant	\$200
	(2) Renewal	\$200

SECTION 14 - RESTAURANT WINE LICENSE; FEE

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

(B) The issuance of a restaurant wine license may be subject to the limitations of KRS 241.060(2) and 241.065.

(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 \$200, per annum.

SECTION 15 - SPECIAL PRIVATE CLUB LICENSE; FEES

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

(B)	<u>License Type</u>	<u>Fee</u>
	Special Private Club License, per annum	\$300

SECTION 16 - CONSUMPTION OF DRINK ON PREMISES; LICENSE REQUIRED; FEE

The City shall have the power and authority to issue licenses authorizing hotels, motels, inns or restaurants to sell alcoholic beverages by the drink for consumption on the premises. The licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units or having dining facilities for not less than 100 persons, or bona fide restaurants open to the general public having dining facilities for not less than 100 persons. The fee for such a license shall be \$600.00 per annum.

SECTION 17 - ALL LICENSES REQUIRED

License fees in the amounts herein provided shall be charged for each location in which any person engages in any classification of business authorized under this section, and if more than one classification of business is conducted at any location, a license shall be charged for each of the privileges exercised.

SECTION 18 - SPECIAL SUNDAY SALE LICENSES UNAUTHORIZED

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

SECTION 19 - LICENSE TERM; RENEWAL

Applications for renewal of licenses required by this section shall be made for

each fiscal year beginning the first day of July and attending through the last day of June of the succeeding year. Applications for renewal are to be filed with ABC Administrator thirty (30) days prior to expiration.

SECTION 20 - 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 reason, no refund of the City license fee shall be granted to licensee.

SECTION 21 - ASSIGNMENTS TRANSFER

The assignment, transfer, pledge or hypothecation of City licenses shall be governed by the provisions of KRS 243.630, 243.650 and 243.660.

SECTION 22 - LOCATION OF BUSINESS RESTRICTED

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. Any additional buildings or rooms attached to licensed premises and requiring separate service bars shall require an additional City license.

SECTION 23 - APPLICATION; CONTENTS

An applicant for a license under this chapter shall file with ABC Administrator a copy of his state license application containing the information required by KRS 243.380 and 243.390. The City application shall include the consent of the applicant permitting the ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the ABC Administrator within thirty-six (36) hours.

SECTION 24 - APPROVAL OR DENIAL OF APPLICATION

(A) If upon review of the application, the ABC Administrator determined that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220, that a license may be issued within the quota limits fixed by the State Alcoholic Beverage Control Board, and that there are no other cause for denial of the license, the ABC Administrator shall approve the application.

(B) If the ABC Administrator has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, he may issue to the applicant a written order setting forth such violation and requiring the

applicant to show cause why the requested license should be issued. The ABC Administrator shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the ABC Administrator. Any decision by the ABC Administrator on the application shall be subject to appeal as provided by law.

SECTION 25 - PAYMENT OF FEES

Upon approval of the application by the ABC Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order or cash.

SECTION 26 - POSTING OF LICENSES; PUBLIC RECORD

Each City license in the same form prescribed by KRS 243.440 for state licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate facsimile of each City license shall remain in the ABC Administrator's office as part of the public record.

SECTION 27 - LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL

(A) Conditions for dormancy. Under the provisions of KRS, all administrative regulations promulgated pursuant to the provisions of KRS and this chapter, as 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 90 days. Because a licensee, like any other business, may have his business interrupted by situations not under his control, various exceptions to this dormancy rule are included in subsection (B).

(B) Surrender of license and exceptions. Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the ABC Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, as amended from time to time, to continue such license in dormancy. In the event a period of dormancy is applied for or granted by the State ABC Department to the licensee, a licensee shall immediately notify the ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the ABC Administrator and a fee shall be due and payable to the ABC Administrator for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(C) Applications based on pending construction or development. Applications approved by the ABC Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or

development on the premises involved. The ABC Administrator may grant extensions, as is deemed appropriate in exercise of his/her sound discretion based on facts and circumstances surrounding each request.

(D) Renewals, time for filing. All renewal of licenses and payment of the license fee must be on file with the ABC Administrator thirty (30) days before the expiration of the licenses for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement thirty (30) days prior to the expiration date of the license, setting forth the facts justifying an extension. The ABC Administrator may then extend the time for filing of a renewal of the license for a reasonable length of time within the exercise of his/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 28 - CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE

(A) State Law References. Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcoholic beverage licensing, sales, or the administration of licenses.

(B) Delinquent Taxes or Fees. No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The ABC Administrator may, in his/her discretion, approve a license to sell after receiving from the City Finance Director, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Finance Director for taking care of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees, which are due and payable by the licensee.

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

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

SECTION 29 - LICENSES REQUIRED FOR SALE

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt beverages, nor manufacture or transport any alcoholic or malt beverages in the City unless said person shall first procure and have issued a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter. Those ordinances, statutes and regulations shall be hereinafter singularly and collectively referred to as the Alcoholic Beverage Control Law.

SECTION 30 – HOURS OF SALE

(A) Retail Package Sales. 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 2:00 a.m. on weekdays, but shall remain closed during the twenty-four (24) hours of Sunday, and at any time when the polls are open or any special election is held in the precinct in which the licensee's business is located.

(B) Retail Sale for Consumption on Licensed Premises. Premises which there had 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 2:00 a.m. each weekday but shall be closed during the twenty-four (24) hours of Sunday, and at any time when the polls are open for any election in the precinct in which the license is granted. However, if the licensee provides a separate department within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and malt beverages and if the department is kept locked during the foregoing time he is not permitted to remain open to sell alcoholic beverages, he shall be deemed to have complied with this subsection.

(C) Retail Sales of Malted Beverages. Retail sales of malt beverages may be made between the hours of 6:00 a.m. and 2:00 a.m. each weekday but no such sales shall be made during the twenty-four (24) hours of Sunday, 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) Violations: Revocation or Suspension of Licenses. Any licensee for sales of alcoholic beverages by the drink or package who remains open for business at any time except the hours permitted under this Section shall be deemed guilty of a misdemeanor and 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 ABC Administrator.

(E) Control of Premises During Closing Hours. During the closing hours, 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 his/her 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) Wholesale Deliveries on Sundays Prohibited. There shall be no delivery by wholesalers of alcoholic or malt beverages on Sunday.

SECTION 31 – HOURS OF SALE, EXCEPTIONS; REQUIREMENTS

A premise that can demonstrate to the ABC Administrator that the gross sales of the restaurant from the sale of food for consumption on the premises is to be not less than fifty percent (50%) of the total gross sales of the licensed restaurant for the annual license period 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 32 – CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic or malt 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 Alcoholic Beverage Control Act or by this ordinance from selling alcoholic or malt beverages, except as provided in Section 30 (C), a prima facie presumption shall arise that such alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be ground for revocation or suspension of the license. In addition to other penalties provided for the violation of this ordinance, the ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

- (A) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.
- (B) It shall be unlawful for a licensee under this ordinance to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.
- (C) It shall be unlawful for any person, holding a license under this chapter to sell alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in connection with the sale of alcoholic beverages.

- (E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 or any regulation promulgated pursuant to KRS 244.130.

SECTION 33 - RETAIL SALES TO CERTAIN PERSONS PROHIBITED

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

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

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

(C) An habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Except as provided in Section 3 (B), anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or of a felony within the preceding twelve (12) months.

SECTION 34 - 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) (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, wine or malt beverages, or any of his clerks, servants, agents or employees 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 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 do not remain in barroom or dance area of restaurants. Minors

not accompanied by parent or legal guardian shall not remain on a licensed premises classified herein as a restaurant after the local 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 area provided for dancing. The term "restaurant" for the purposes of this subsection means an establishment, the principal business of which is the furnishing of meals to the public. The incidental sale of sandwiches and/or other food items shall not render any licensed premises a "restaurant" within the meaning of this chapter.

- (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 clerks, servants, agents or employees is guilty of permitting the unlawful possession or consumption of alcoholic beverages on a licensed premises when he:

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

- (D)
 - (1) In the event a violation occurs under the provisions of this section, the ABC Administrator shall 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 activity prohibited by the aforementioned sections occurred, may have his license suspended or revoked.
 - (2) 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 ABC Administrator, 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 35 - LICENSEE TO DISPLAY NOTICE AS TO 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 and 00/100 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.

SECTION 36 – 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 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 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 shall be allowed in an amount equal to the cost of the license under the provisions of this chapter.

(B) The regulatory license fee shall be Three Percent (3%) for the fiscal year, beginning July 1, 2002 and continuing thereafter until amended or repealed.

Payment of such fee shall accompany tax returns approved for use by the City Finance Director and a majority of the City Council. The return shall be submitted to the City Finance Director by the twentieth (20th) day of each month for the preceding month's sales. The fraction, represented by one divided by the number of months for

city license was issued, of the fee required under the provisions of this chapter shall be deducted each month as a credit.

SECTION 37 - FAILURE TO PAY

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

SECTION 38 - INTEREST ON LATE PAYMENT

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

SECTION 39 – ADEQUATE RECORDKEEPING 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 ABC Administrator and approved by a majority of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by ABC Administrator, the City Finance Director, or any authorized representatives.

SECTION 40 - 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 and 00/100 Dollars (\$50.00) shall be assessed for the first offense. An automatic penalty of One Hundred and 00/100 Dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of Two Hundred and 00/100 Dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, ABC Administrator shall hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose of invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

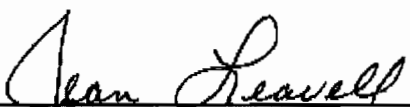
SECTION 41 – UNCONSTITUTIONALITY

Any and all existing ordinances inconsistent with this ordinance are hereby repealed. Should any part of this ordinance be void or unconstitutional, the remaining ordinance shall remain in full force and effect.

Approved on First Reading this 4th day of December, 2001.


Approved on Second Reading this 18th day of DECEMBER, 2001.

APPROVED:



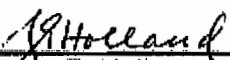
Jean Leavell, Mayor
City of Oak Grove, Kentucky

ATTEST:



Colleen Ochs, City Clerk
City of Oak Grove, Kentucky

PREPARED BY:



Jason E. Holland
Oak Grove City Attorney
P. O. Box 648
Hopkinsville, KY 42241-0648

PUBLISHED: In summary in the Kentucky New Era, the 21st day of DECEMBER, 2001.

AN ORDINANCE OF THE CITY OF OAK GROVE, KENTUCKY, PROVIDING FOR THE REGISTRATION, PHOTOGRAPHING AND FINGER PRINTING OF ALL EMPLOYEES OF ESTABLISHMENTS THAT SELL LIQUOR OR BEER BY THE DRINK WITHIN THE CITY OF OAK GROVE, KENTUCKY, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY OF OAK GROVE, KENTUCKY:

SECTION I

REGISTRATION, PHOTOGRAPHING AND FINGER PRINTING OF EMPLOYEES.

1. Any person employed in any capacity in any establishment or place of business, except as hereinafter provided, where liquor or beer is sold or dispensed by the drink as defined in both the Kentucky Revised Statutes and the Oak Grove City Ordinances, shall register in a book of registration to be kept by the Oak Grove Police Department, and is hereby required to be finger printed and photographed by the Police Department of the City of Oak Grove within five (5) days from the time of his or her employment. No such person shall fail to register, be finger printed and photographed.

2. No employer, whether a person, firm or corporation, shall allow any person to remain in such employment longer than five (5) days unless within such five (5) day period, the employee shall have registered and shall have been finger printed and photographed.

3. The registrants are required to have in their possession the identification cards issued by the Oak Grove Police Department on their persons during their hours of

4. The City of Oak Grove shall require a payment of Fifteen Dollars (\$15.00) of each person registered, which charge shall be sufficient to cover the cost involved in the procedure, including the cost of the identification card furnished to the registrants.

5. In those businesses having a liquor or beer by the drink license where the sale of food is their primary business, this registration procedure shall not apply to waiters and waitresses which primary function is the service of food.

6. Any establishment having a liquor or beer by the drink license that employs a contract cleaning service or other maintenance service to work in their establishment after closing hours, shall require those persons so employed by the contractor to wear an I.D. card while working in that portion of the establishment that is directly involved in the sale of liquor or beer by the drink. This special I.D. card shall only list the persons, name address and date of birth.

7. Any person, firm or corporation convicted of violating this Ordinance shall be fined not less than Twenty-five Dollars (\$25.00), no more than Five Hundred Dollars (\$500.00) in the discretion of the Christian District Court.

SECTION II

SEVERABILITY:

If any section, subsection, sentence, clause, phrase or portion thereof, is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such


portion shall be deemed a separate, distinct and independent provision and such holdings shall not effect the validity of the remaining portion hereof.

FIRST READING

Adopted by the City Council of the City of Oak Grove, Kentucky, on first reading at a regular meeting held February 13, 1984.


RAYMOND J. ELLIOTT, MAYOR

ATTEST:


HELGA P. WRIGHT, CITY CLERK

SECOND READING

Adopted by the City Council of the City of Oak Grove, Kentucky, on second reading at a regular meeting held March 12, 1984.


RAYMOND J. ELLIOTT, MAYOR

ATTEST:


HELGA P. WRIGHT, CITY CLERK

PUBLISHED: In Full in the Kentucky New Era, the 27th day of March, 1984.