

**AMENDED ORDINANCE NO. 2017 - 006****AMENDMENT TO ALCOHOL BEVERAGE CONTROL ORDINANCE PROVISIONS  
REGARDING HOURS OF SALE.**

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
PAINTSVILLE, KENTUCKY, AS FOLLOWS:**

**TITLE XI, CHAPTER 121, SECTIONS 121.037 AND 121.080 OF THE CODE OF  
ORDINANCES OF THE CITY OF PAINTSVILLE, KENTUCKY, THE ABOVE-STATED  
ORDINANCE SHALL BE AMENDED TO PROVIDE AS FOLLOWS:**

**§ 121.037 TYPES OF LICENSES; FEES.****(B) *Types of licenses and required license fees.*****7. Caterer's license.**

- (a) Annual license fee: \$800.
- (b) A caterer's license may be issued as a supplementary license to a caterer who holds a quota retail package license or an NQ-2 retail drink license.
- (c) A caterer's license may be issued as a primary license for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall be issued to a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.
- (d) The caterer's license shall authorize the caterer to:
  - 1. Transport, sell, serve, and deliver malt beverages by the drink at locations away from the licensed premises, or at the caterer's designated banquet hall, in conjunction with the catering of food and malt beverages for a customer and his or her guests, in:
    - i. The city limits and all other wet territory, if the receipts from the catering of food at any catered event are at least 35% of the gross receipts from the catering of both food and malt beverages; or
    - ii. Cities and counties established as moist territory under KRS 242.1244, if the receipts from the catering of food at any catered event are at least 70% of the gross receipts from the catering of both food and malt beverages.
  - 2. Transport, sell, serve, and deliver distilled spirits and wine by the drink at locations away from the licensed premises, or at the caterer's

designated banquet hall, in conjunction with the catering of food and alcoholic beverages for a customer and his or her guests, in:

- i. The city and/or any other cities of the fourth class and counties containing cities of the fourth class established as wet or moist territory permitting distilled spirits and wine drink sales by ordinance under KRS 243.072, if the receipts from the catering of food at any catered event are at least 50% of the gross receipts from the catering of both food and alcoholic beverages;
  - ii. Cities and counties established as moist territory under KRS 242.1244, if the receipts from the catering of food at any catered event are at least 70% of the gross receipts from the catering of both food and alcoholic beverages; or
  - iii. All other wet territory in which the sale of distilled spirits and wine by the drink is authorized, if the receipts from the catering of food at any catered event are at least 35% of the gross receipts from the catering of both food and alcoholic beverages.
3. Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and
  4. Receive payment for alcoholic beverages served at a catered event on a by-the-drink or by-the-event basis. The caterer may bill the host for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.
- (e) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. A caterer licensee may cater a fund-raising event for which a special temporary distilled spirits and wine auction license has been issued under KRS 243.036.
- ~~(f) A caterer licensee shall not cater distilled spirits and wine on Sunday, except in territory in which the Sunday sale of distilled spirits and wine is permitted under the provisions of KRS 244.290 and KRS 244.295. A caterer licensee shall not cater malt beverages on Sunday, except in territory in which the Sunday sale of malt beverage is permitted under the provisions of KRS 244.480.~~
- (f) The caterer licensee shall post a copy of his or her caterer's license at the location of the function for which alcoholic beverages are catered.
- (g) The name and license number of the caterer shall be painted or securely attached, in a contrasting color, in a form prescribed by the State Alcoholic Beverage Control Board by promulgation of an administrative regulation, upon all vehicles used by the caterer to transport alcoholic beverages.
- (h) All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink licensee not inconsistent with this section shall apply to the caterer licensee.

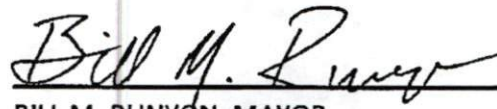
- (i) The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the State Alcoholic Beverage Control Board.
- (j) The caterer licensee shall submit a list of functions catered or to be catered, including location, host, date and time, upon request of the local ABC administrator.

And;

**§ 121.080 HOURS OF SALE.**

- A. Premises for which there has been granted a license for the retail sales of alcoholic beverages shall be permitted to sell or offer for sale alcoholic beverages only between the hours of 6:00 a.m. and 12:00 a.m. each day, from Monday through Saturday; except Sunday, and on Sunday, only between the hours of 1:00 p.m. and 10:00 p.m., subject to the exceptions set forth in division (B) below. ~~It shall be unlawful to sell or offer for sale any alcoholic beverage during the 24 hours of each Sunday.~~
- B. *Exception.* On each New Year's Eve (December 31), any retail licensee shall be permitted to sell any alcoholic beverages the licensee is otherwise permitted to sell until the hour of 1:00 a.m. on January 1. ~~However, this exception shall not apply should New Year's Eve fall on a Sunday.~~
- C. It shall be unlawful to keep open for business or permit the public to remain within, or to permit consumption of alcoholic beverages in or upon any premises in which alcoholic beverages are sold at retail during the hours within which the sale of alcoholic beverages is prohibited; provided, however, that in the case of bona fide restaurants and hotels/motels/inns, such establishments may be kept open for business during such hours when alcoholic beverage sales are prohibited, but no alcoholic beverages may be sold to the public during such hours.
- D. Consumption of alcoholic beverages on licensed premises may not continue for more than 30 minutes after the hours set forth herein for the sales of alcoholic beverages to cease. Provided, however, that this section limiting the time for consumption of alcoholic beverage on licensed premises shall not apply to hotels, motels and inns.

ADOPTED by the City Council of the City of Paintsville, this 14 day  
of June, 2017.



BILL M. RUNYON, MAYOR  
CITY OF PAINTSVILLE

ATTEST:



VIRGIE CASTLE, CITY CLERK

1<sup>ST</sup> READING: 06-12-2017

2<sup>ND</sup> READING: 06-14-2017

PUBLICATION DATE: 06-16-2017

**AMENDED ORDINANCE NO. 2013- 003**

**AMENDMENT TO ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES AND OTHERWISE PROVIDING PROVISIONS FOR ALCOHOLIC BEVERAGE CONTROL WITHIN THE CITY LIMITS OF PAINTSVILLE, KENTUCKY**

WHEREAS, the Kentucky General Assembly passed Senate Bill 13 "SB 13" into law during the 2013 legislative session; and

WHEREAS, the passage of SB 13 by the Kentucky General Assembly has resulted in many changes to Kentucky's alcoholic beverage statutes; and

WHEREAS, the changes in Kentucky's alcoholic beverage statutes necessitate the amendment of the City's ordinance regulating the sale of alcoholic beverages and otherwise providing for alcoholic beverage control within the City of Paintsville, Kentucky in order to bring the City's ordinances into compliance with current state law.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF PAINTSVILLE, KENTUCKY, AS FOLLOWS:

TITLE \_\_\_\_\_, CHAPTER \_\_\_\_\_ OF THE CODE OF ORDINANCES OF THE CITY OF PAINTSVILLE, KENTUCKY, THE ABOVE-STATED ORDINANCE SHALL BE AMENDED TO PROVIDE AS FOLLOWS:

**ARTICLE ONE: GENERAL PROVISIONS**

**Section 1.01 TITLE**

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

**Section 1.02 INCORPORATION OF STATE LAW; DEFINITIONS; AND COMPLIANCE REQUIRED**

- A. **Definitions.** As used in this Chapter, unless the context clearly indicates a different meaning and specifies the language of a particular definition which shall apply, the words and terms as defined in Kentucky Revised Statute 241.010 (KRS 241.010) shall apply.
- B. The provisions of the Kentucky Alcoholic Beverage Control laws contained in Kentucky Revised Statutes (KRS) Chapters 241, 242, 243, and 244, pertaining to licenses and regulations of the State Alcoholic

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Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the Alcoholic Beverage Control law of the City of Paintsville, except as otherwise lawfully provided herein. As used herein "State" means the Commonwealth of Kentucky, and "City" means the City of Paintsville, Kentucky.

- C. Any violation of State law relating to the sale, production, storing, or otherwise trafficking in alcoholic beverages shall also constitute a violation of this ordinance.
- D. No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this ordinance and all State statutes and regulations applicable thereto.
- E. All prohibitions, restrictions and regulations pertaining to alcoholic beverages contained in KRS Chapter 244 shall apply to alcoholic beverage use in the City.

#### Section 1.03 SCOPE OF COVERAGE

- A. This ordinance shall be construed to apply to the trafficking in all forms of "alcoholic beverages" as that term is defined at KRS 241.010(2), including malt beverages, distilled spirits, and wine where the context permits such applications. Unless the context otherwise expressly states or requires, the term "alcoholic beverage" or "alcoholic beverages" shall have the same meaning as defined at KRS 241.010(2) and shall include distilled spirits, wine, and malt beverages.
- B. Nothing contained in this ordinance shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the City where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance of the City or of any State and/or Federal statutes or regulations.

#### Section 1.04 DEPOSIT OF FEES, FINES TO GENERAL FUNDS

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

### Section 1.05 NOTICE TO STATE ABC BOARD OF FEES LEVIED

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

## ARTICLE TWO: ADMINISTRATION

### Section 2.01 ALCOHOL BEVERAGE CONTROL ADMINISTRATOR

Pursuant to KRS 241.160, the duties of the office of the City Alcoholic Beverage Control Administrator ("City ABC Administrator") as hereinafter established in this ordinance shall be assigned to the office of the Mayor. The Mayor shall have the power and authority to designate and appoint individuals as Deputy Alcoholic Beverage Control Administrators ("Deputy ABC Administrators"), to assist in the responsibilities of the office of the City ABC Administrator. The City ABC Administrator shall have the power and authority to promulgate such regulations as may be necessary to implement this chapter, pursuant to KRS 241.190 and KRS 241.060.

### Section 2.02 FUNCTIONS, DUTIES AND POWERS

- A. The functions of the City ABC Administrator shall be the same with respect to the City's alcohol licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board (the "State Board") with respect to State alcohol licenses and regulations, as provided in KRS 241.190, except that no regulations of the City ABC Administrator shall be less stringent than the statutes relating to alcoholic beverage control or the regulations of the State Board.
- B. The City ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of alcohol licenses issued by the City as the State Board has with respect to alcohol licenses issued by the State under KRS 241.060.

### Section 2.03 RIGHT OF INSPECTION

The City ABC Administrator, his designees/appointees and/or City of Paintsville law enforcement officers shall have available at all reasonable times for their inspection, all books and records required to be maintained by licensees pursuant to KRS 244.150 and all other applicable State laws and regulations. Further, the City ABC Administrator shall simultaneously

receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

#### **Section 2.04 APPEALS FROM CITY ABC ADMINISTRATOR**

Appeals from any order of the City ABC Administrator may be taken to the State Alcoholic Beverage Control Board by filing with the Board within thirty (30) days a certified copy of the order of the City ABC Administrator from which the appeal is taken. Matters at issue shall be heard by the Board as upon an original proceeding, and the appeal shall be governed in accordance with KRS 241.200, KRS 243.550, and all other applicable State law.

#### **Section 2.05 OATH AND BOND OF LOCAL ABC ADMINISTRATOR EMPLOYEES**

- A. Each City ABC Administrator, before entering upon his duties as such, shall take the oath prescribed in Section 228 of the Constitution of the Commonwealth of Kentucky, and shall execute a bond with a good corporate surety in the penal sum of not less than One Thousand Dollars (\$1,000).
- B. Each City ABC Administrator may require any City employee under his supervision to execute a similar bond in such penal sum as he deems necessary.
- C. The cost of bonds given under this section shall be borne by the City, in accordance with KRS 241.180.

### **ARTICLE THREE: LICENSING REGULATIONS**

#### **Section 3.01 NUMBER AND TYPE OF LICENSES**

The number and type of licenses for the manufacturing and/or trafficking in alcoholic beverages issued in the City shall not exceed the number and type of licenses as provided for and established under Kentucky Revised Statutes and all Kentucky Administrative Regulations promulgated pursuant thereto, as may be amended from time to time.

#### **Section 3.02 LICENSE REQUIRED FOR SALE**

No person shall, within the City, sell or dispense at retail or have in his possession for sale, nor manufacture or transport within the City for sale, any alcoholic beverages unless he shall first procure and have issued to him the appropriate license issued under the provisions of this ordinance,



all State statutes and all administrative regulations adopted pursuant thereto. Any revocation, suspension, non-renewal or other action which obviates any license for the sale of alcoholic beverages issued by the State shall also operate to invalidate and make null and void the corresponding license issued pursuant to this ordinance.

### Section 3.03 TYPES OF LICENSES; FEES

#### A. GENERAL PROVISION DECLARING ECONOMIC HARDSHIP PURSUANT TO KRS 243.072

Pursuant to KRS 243.072, the City Council of the City of Paintsville has made, and hereby expresses, its determination that an economic hardship exists within the City, and that the sale of alcoholic beverages by the drink within the City can aid economic growth. Based upon said determination by the City Council, this ordinance is adopted as a comprehensive means to regulate the sale of alcoholic beverages by the drink for consumption on the premises where sold, in accordance with the applicable provisions of Kentucky state law.

#### B. TYPES OF LICENSES AND REQUIRED LICENSE FEES

The City shall have the power and authority to issue the following types of licenses for the sale, manufacture and/or trafficking in alcoholic beverages, upon proper application and payment of the below prescribed annual fees. All license fees indicated are on a per annum basis, unless otherwise expressly indicated.

##### 1. Quota Retail Package License

a. Annual License Fee: \$630

b. This license shall authorize the licensee to sell distilled spirits and wine at retail by the package from the licensed premises only for consumption off the licensed premises only.

c. The holder of Quota Retail Package License may also obtain a Nonquota Retail Malt Beverage Package License.

##### 2. Nonquota Retail Malt Beverage Package License ("NQ Retail Malt Beverage Package License")

a. Annual License Fee: \$200

b. This license shall authorize the licensee to sell malt beverages at retail by the package from the licensed premises only for consumption off the licensed premises only.

- c. The holder of a Nonquota Retail Malt Beverage Package License may also obtain a Quota Retail Package License.
3. Nonquota Type 4 Retail Malt Beverage Drink License ("NQ-4 Retail Malt Beverage Drink License")
- a. Annual License Fee: \$200
- b. This license shall authorize the licensee to sell malt beverages at retail by the drink from only the licensed premises for consumption at the licensed premises only.
- c. The holder of an NQ-4 retail malt beverage drink license may also hold a nonquota retail malt beverage package license.
4. Nonquota Type 2 Retail Drink License ("NQ-2 Retail Drink License")
- a. Annual License Fee: \$630
- b. A "Nonquota Type 2" or "NQ-2" retail drink license may be issued to:
- (1) A hotel that:
- i. contains at least fifty (50) sleeping units;
  - ii. contains dining facilities for at least one hundred (100) persons; and
  - iii. receives from its total food and beverage sales at least fifty per cent (50%) of its gross receipts from the sale of food;
- (2) A restaurant with a minimum seating for fifty (50) consumers at tables.
- c. A qualifying hotel or restaurant with seating for at least one hundred (100) consumers at tables holding an NQ-2 retail drink license may purchase, receive, possess and sell distilled spirits, wine and malt beverages at retail by the drink for consumption on the licensed premises.
- d. A restaurant holding an NQ-2 retail drink license which has seating for more than fifty (50) but less than one hundred (100) consumers at tables may only purchase, receive, possess and sell wine and malt beverages at retail by the drink for consumption on the licensed premises.
- e. The term "restaurant" as used in this section shall have the same meaning as currently provided at KRS 241.010(43), to wit: "a 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 per cent (50%) of its food and beverage receipts from the sale of food".
- f. The term "hotel" as used in this section shall have the same meaning as currently provided at KRS 241.010(28), to wit: "a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons".

- g. An NQ-2 retail drink license shall not authorize the licensee to sell distilled spirits, wine or malt beverages by the package.**
- h. The holder of an NQ-2 retail drink license shall comply with the requirements of KRS 243.250.**

**5. Nonquota Type 3 Retail Drink License ("NQ-3 Retail Drink License")**

- a. Annual License Fee: \$300**
- b. A "Nonquota Type 3" or "NQ-3" retail drink license may be issued to:**
  - (1) A private club in existence for longer than one (1) year prior to the license application; or**
  - (2) A dining car.**
- c. An NQ-3 retail drink license issued to a private club shall authorize the licensee to exercise the privileges of an NQ-2 retail drink licensee, at the designated premises if the general public is excluded.**
- d. An NQ-3 retail drink license issued to a dining car shall authorize the licensee to exercise the privileges of an NQ-2 retail drink licensee and shall also authorize the licensee to sell distilled spirits and wine by the package, only on the designated dining car identified in the NQ-3 license.**
- e. The term "private club" as used in this section shall have the same meaning as currently provided at KRS 241.010(38), to wit: "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.**
- f. The term "dining car" as used in this section shall have the same meaning as currently provided at KRS 241.010(19), to wit: "a railroad passenger car that serves meals to consumers on any railroad or Pullman car company".**
- g. In order to assure that the general public is excluded from the designated premises of a private club "NQ-3" retail drink licensee, the following guidelines must be met:**
  - i. each private club member shall be issued a membership card which can be readily produced while visiting said club;**
  - ii. each private club member shall be limited to no more than two (2) non-member guests at any club function or event; and**
  - iii. a written log shall be maintained of all non-member guests.**

**6. Limited Golf Course License**

- a. Annual License Fee: \$630**
- b. A limited golf course license may be issued to an establishment that is a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria and is located within the City of Paintsville's city limits.**

c. A limited golf course license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The license shall not authorize the licensee to sell distilled spirits, wine, and malt beverages by the package.

7. Caterer's License

a. Annual License Fee: \$800

b. A caterer's license may be issued as a supplementary license to a caterer who holds a quota retail package license or an NQ-2 retail drink license.

c. A caterer's license may be issued as a primary license for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall be issued to a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.

d. The caterer's license shall authorize the caterer to:

(1) Transport, sell, serve, and deliver malt beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and malt beverages for a customer and his or her guests, in:

- i. the city limits of the City of Paintsville, Kentucky and all other wet territory, if the receipts from the catering of food at any catered event are at least thirty-five per cent (35%) of the gross receipts from the catering of both food and malt beverages; or
- ii. cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food at any catered event are at least seventy per cent (70%) of the gross receipts from the catering of both food and malt beverages.

(2) Transport, sell, serve, and deliver distilled spirits and wine by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and his or her guests, in:

- i. the City of Paintsville, Kentucky and/or any other cities of the fourth class and counties containing cities of the fourth class established as wet or moist territory permitting distilled spirits and wine drink sales by ordinance under KRS 243.072 if the receipts from the catering of food at any catered event are at least fifty per cent (50%) of the gross receipts from the catering of both food and alcoholic beverages;
- ii. cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food at any catered event are at least seventy per cent (70%) of the gross receipts from the catering of both food and alcoholic beverages; or
- iii. all other wet territory in which the sale of distilled spirits and wine by the drink is authorized if the receipts from the catering of food at any

catered event are at least thirty-five per cent (35%) of the gross receipts from the catering of both food and alcoholic beverages.

- (3) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and
    - (4) Receive payment for alcoholic beverages served at a catered event on a by-the-drink or by-the-event basis. The caterer may bill the host for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.
  - e. A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. A caterer licensee may cater a fundraising event for which a special temporary distilled spirits and wine auction license has been issued under KRS 243.036.
  - f. A caterer licensee shall not cater distilled spirits and wine on Sunday except in territory in which the Sunday sale of distilled spirits and wine is permitted under the provisions of KRS 244.290 and 244.295. A caterer licensee shall not cater malt beverages on Sunday except in territory in which the Sunday sale of malt beverage is permitted under the provisions of KRS 244.480.
  - g. The caterer licensee shall post a copy of his or her caterer's license at the location of the function for which alcoholic beverages are catered.
  - h. The name and license number of the caterer shall be painted or securely attached, in a contrasting color, in a form prescribed by the State Alcoholic Beverage Control Board by promulgation of an administrative regulation, upon all vehicles used by the caterer to transport alcoholic beverages.
  - i. All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink licensee not inconsistent with this section shall apply to the caterer licensee.
  - j. The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the State Alcoholic Beverage Control Board.
  - k. The caterer licensee shall submit a list of functions catered or to be catered, including location, host, date and time, upon request of the local ABC administrator.
8. Special Temporary License
- a. License Fee shall be \$166.66 per event.
  - b. A special temporary license may be issued to any regularly organized fair, exposition, racing association, or any other party, for the sale, service and delivery of wine and/or malt beverages by-the-drink for consumption at any approved and licensed special temporary event such as fairs, sporting events, entertainment events or other public events as specifically approved by the State Alcoholic Beverage Control Board. The special temporary license issued pursuant to this subsection shall be issued for a

specified and limited time, not to exceed thirty (30) days, and shall expire when the qualifying event ends.

- c. A nonprofit organization holding an NQ-4 retail malt beverage drink license may be issued a special temporary license to sell wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days. The special temporary license issued under this subsection may be issued in conjunction with any public or private event, including but not limited to weddings, receptions, reunions, or similar occasions, as specifically approved by the State Alcoholic Beverage Control Board.

9. Wholesaler's Distilled Spirits and Wine License

- a. Annual License Fee: \$3,000
- b. This license authorizes the licensed wholesaler to purchase, receive, store and possess distilled spirits and wine to sell at wholesale, from the licensed premises only, and to transport from the licensed premises for himself or herself only any alcoholic beverage that the wholesaler's license authorizes the licensee to sell, in accordance with Kentucky state law.

10. Malt Beverage Distributor's License

- a. Annual License Fee: \$400
- b. This license shall authorize the licensee to purchase, import, store, sell and otherwise distribute malt beverages, in accordance with applicable Kentucky state law.

11. Distiller's License

- a. Annual License Fee: \$500
- b. This license shall authorize the licensee to engage in the business of a distiller at the premises specifically designated in the license, and to maintain warehouses, and to transport for himself or herself only any alcoholic beverage which he or she is authorized under the license to manufacture or sell, in accordance with applicable Kentucky state law.

12. Rectifier's License

- a. Annual License Fee: \$3,000
- b. This license shall authorize the licensee to engage in the business of a rectifier at the premises specifically designated in the license, and to maintain warehouses, and to transport for himself or herself only any alcoholic beverage which he or she is authorized under the license to manufacture or sell, in accordance with applicable Kentucky state law.

13. Brewer's License

- a. Annual License Fee: \$500

- b. This license shall authorize the licensee to engage in the business of a brewer at the premises specifically designated in the license, and to transport for himself only any malt beverages which he is authorized by his license to manufacture or sell, but he shall transport any malt beverages in accordance with the requirements provided by KRS 243.120 for distillers, all in accordance with the provisions of applicable Kentucky state law.

14. Microbrewery License

- a. Annual License Fee: \$500

- b. This license shall authorize the licensee to perform all functions and engage in all activities specifically permitted for a microbrewery in accordance with applicable Kentucky state law.

~~REGULATED SPIRITS AND WINE LICENSES; FEES~~

~~Pursuant to KRS 242.185, the City Council of the City of Paintsville has made and hereby expresses its determination that an economic hardship exists within the City, as evidenced by a slow rate of growth, the lack of significant employment and/or viable entrepreneurial opportunities, and existing budgetary constraints caused by various economic conditions which have resulted in increased expenses which continue to expand at rates greater than currently available revenues, and that the sale of alcoholic beverages within the City, including distilled spirits and wine, can aid economic growth. Based upon said determination by the City Council, this section of the Paintsville Alcoholic Beverage Control Ordinance is adopted as a comprehensive means to regulate the sale of distilled spirits and wine by the drink for consumption on the premises where sold.~~

~~Based upon the determination made by the Paintsville City Council as expressed above in Section 3.03(A)(1), and in accordance with the authority conferred by KRS 242.185, the City of Paintsville shall have the power and authority to issue licenses for the sale of distilled spirits and wine by the drink for consumption on the premises where sold; and said licenses for the sale of distilled spirits and wine by the drink for consumption on the premises where sold shall only be issued to or for the following:~~

~~in respect to retail drink licenses (distilled spirits and wine):~~

~~hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons; or~~

~~ii Bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.~~

~~With respect to restaurant wine licenses:~~

~~i Bona fide restaurants open to the general public having dining facilities for not less than fifty (50) persons.~~

~~The term "restaurant" as used in this section shall have the same meaning as currently provided at KRS 241.010, to-wit: "a facility where the usual and customary business is the serving of meals to customers, that has a bona fide kitchen facility, and that derives at least fifty per cent (50%) of its gross receipts from the sale of food";~~

~~§ 241.010 Licenses for Distilled Spirits and Wine; Annual Fees. The city shall have the power and authority to issue the following classes of licenses for the sale and trafficking in distilled spirits and wine upon proper application and payment of the below indicated annual fees. All license fees indicated are on a per premises basis, unless otherwise expressly indicated.~~

~~Classes of Retail Licenses Defined~~

~~Retail Package License (distilled spirits and wine): This license shall authorize the retail sale of distilled spirits and wine for consumption other than on the premises.~~

~~Retail Drink License (distilled spirits and wine): This license shall authorize the retail sale of distilled spirits and wine for consumption on the licensed premises in accordance with the restrictions set forth in this section.~~

~~Restaurant Wine License: This license shall authorize the retail sale of wine for consumption on the licensed premises in accordance with the restrictions set forth in this section.~~

~~Supplemental Bar License: This license shall authorize the licensee to operate and maintain more than one (1) bar per licensed premises. A separate license is required for each supplemental bar.~~



~~3.03 License Fees -- Distilled Spirits and Wine~~

<del>Type of License</del>	<del>Fee</del>
<del>Wholesaler's License (distilled spirits and wine)</del>	<del>\$3,000</del>
<del>Small Package License (distilled spirits and wine)</del>	<del>\$ 600</del>
<del>Small Drink License (distilled spirits and wine, consumption on premises)</del>	<del>\$ 600</del>
<del>Restaurant Wine License</del>	
<del>    New applicant</del>	<del>\$ 600</del>
<del>    Renewals</del>	<del>\$ 400</del>
<del>Special Temporary Wine License (per event)</del>	<del>\$ 50 (per event)</del>
<del>Supplemental Bar License (per bar)</del>	<del>\$ 600</del>

~~3.04 BEVERAGE LICENSES: FEES~~

~~The City shall have the power and authority to issue the following types of licenses for the sale and trafficking of malt beverages upon application and the payment of prescribed fees as set forth below. All fees stated are on a per annum basis, unless otherwise indicated.~~

<del>Type of License</del>	<del>Fee</del>
<del>Beverage Distributor's License</del>	<del>\$ 400</del>
<del>Retail Beverage License</del>	<del>\$ 200</del>
<del>Special Temporary Retail Malt Beverage License (per event)</del>	<del>\$ 25 (per event)</del>

~~3.05 TEMPORARY LICENSES~~

~~Special Temporary Retail Malt Beverage License~~

~~The City shall have the power and authority to issue a special temporary retail malt beverage license upon proper application and payment of the prescribed fee. This license shall authorize the retail sale and consumption of malt beverages on the premises of any approved and licensed special temporary restaurant, food trucks, sporting events, entertainment events, or other approved public events.~~

~~As indicated in Section 3.03(B) above, the fee for this license shall be \$25 per event.~~

~~Special Temporary Wine License~~

~~a. The City shall have the power and authority to issue a special temporary wine license upon proper application and payment of the prescribed fee. This license shall authorize the retail sale and consumption of wine on the premises of any approved and licensed special temporary occasion such as fairs, sporting events, entertainment events or other approved public events.~~

~~b. As indicated in Section 3.03(A)(4) above, the fee for this license shall be \$50 per event.~~

~~SPECIAL PRIVATE CLUB LICENSE; FEE REQUIRED~~

~~The City shall have the power and authority to issue a special private club license to any nonprofit social, fraternal, military or political organization or club which maintains or operates designated premises from which the general public is excluded. This license shall authorize the licensee to exercise the privileges of a retail malt beverage licensee or distilled spirits and wine retail drink licensee, or both, at the designated premises so long as the general public is excluded. All restrictions and prohibitions otherwise applying to a malt beverage and/or distilled spirits and wine retail drink licensee shall apply to a special private club licensee.~~

~~In order to assure that the general public is excluded from the designated premises of a private club license holder, the following guidelines must be met:~~

~~1. Each private club member shall be issued a membership card which can be readily produced while visiting said club;~~

~~2. Each private club member shall be limited to no more than two non-member guests at any club function or event; and~~

~~3. A visitor log shall be maintained of all non-member guests.~~

~~The fee for this category of license shall be:~~

<del>Special License</del>	<del>_____ Fee</del>
<del>Club License, per annum</del>	<del>_____ \$300</del>

#### ~~CATERER'S LICENSE; FEES~~

~~1. As used in this section, unless the context requires and expressly states otherwise, the term "caterer" means a corporation, partnership or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.~~

~~The City shall have the power and authority to issue a caterer's license for the sale of alcoholic beverages upon proper application and payment of the prescribed fees. A caterer's license for the sale of alcoholic beverages may be issued as a supplementary license to a caterer that also holds a retail package license (distilled spirits and wine) or a hotel/motel/inn or restaurant retail drink license.~~

~~The caterer's license shall authorize the caterer to:~~

~~1. purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280 and 244.310.~~

~~2. transport, sell, serve and deliver alcoholic beverages by the drink at locations in wet territory away from the licensed premises in conjunction with the catering of food and beverages for a customer and/or his guests. Distilled spirits and wine may also be transported, sold, served or delivered.~~

~~3. receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a function catered by the licensee; and~~

~~4. receive payment for alcoholic beverages served at a function either by the drink or by the function basis. A caterer may bill the host for by the function sales of alcoholic beverages in the normal course of the caterer's business.~~

~~5. A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverages licenses or special temporary licenses have been issued.~~

- ~~2. The caterer licensee shall post a copy of the caterer's license at the location of the function for which alcoholic beverages are catered.~~
- ~~3. The name and license number of the caterer shall be painted, in a contrasting color, in a form prescribed by the Kentucky Administrative Regulations, upon all vehicles used by the caterer to transport alcoholic beverages.~~
- ~~4. All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee not inconsistent with this section shall apply to the caterer licensee.~~
- ~~5. The caterer licensee shall submit a list of functions catered or to be catered, including location, host, date and time upon request of the local ABC Administrator.~~
- ~~6. The fee for the caterer license shall be:~~

<del>Type of License</del>	<del>Fee</del>
<del>License, per annum</del>	<del>\$800</del>

~~This section shall not be construed to limit the City's authority under KRS 242.185(4) and other sections of this ordinance, or any other provision of law, to issue any license permitted by KRS 243.070 and any applicable State law.~~

**Section 3.04 LICENSES PERMITTED**

In accordance with KRS 242.185(4), [KRS 243.072(4)], the City of Paintsville shall have the power and authority to issue any license for the manufacturing, trafficking and sale of alcoholic beverages permitted by KRS 243.070, or the issuance of any other reasonable administrative regulations as may be necessary for the enforcement or administration of applicable State statutes and regulations and/or city ordinances.

**Section 3.05 REGULATIONS TO CONFORM TO STATE LAW**

All regulations which may be issued to administer KRS 242.185 [KRS 243.072], this section of the Paintsville Alcoholic Beverage Control Ordinance, and/or any other provision of State law or city ordinance shall conform to the requirements of KRS 241.190.

### Section 3.06 LICENSE TERM; RENEWALS; AND WHEN LICENSE FEE DUE

- A. All required fees, as indicated above, for any form of alcoholic beverage license shall be due upon submission of any original application or application for renewal. The license applicant shall submit all required fees along with the application forms required for issuance of any alcoholic beverage license under this chapter. The required fee shall be paid by cash, certified check, or postal or express money order.
- B. All fees required to be paid upon submission of any original application or application for renewal of alcoholic beverage licenses under this ordinance shall be held on deposit by the City pending State license approval and issuance of the required State license. In the event that any requested State license is not issued for any reason, the applicant must submit a written request for a refund of all license fees paid in relation to the requested licenses not issued. The applicant's written request for refund must be submitted to the City ABC Administrator. Upon proper written request, the City will refund the license fees submitted by the applicant for any license(s) not issued, but the City will retain Fifty Dollars (\$50) per license fee paid for processing costs. In the event that any license fee submitted is Fifty Dollars (\$50) or less, there will be no refund from the City as the entire amount will be retained for processing costs.
- C. All alcoholic beverage licenses issued under this chapter shall expire on ~~May 31~~ [April 30] of each year. All renewal applications shall be submitted six (6) weeks prior to the annual expiration date, and license renewal fees shall be due and payable on ~~June 1~~ [May 1] of each year.

### Section 3.07 PRO-RATED LICENSE FEE

When any applicant makes application for a new license authorized to be issued under this chapter, he shall be charged 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 months remain before the license is due to be renewed. No abatement of license fee 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.

### Section 3.08 REFUNDS PROHIBITED

In the event any licensee shall cease doing business for any reason, no refund of any license fee required hereunder shall be granted.

### Section 3.09 ASSIGNMENT, TRANSFER OR LICENSE REPLACEMENT

- A. The assignment, transfer or other form of acquisition of an interest in an alcoholic beverage license of whatsoever nature shall be governed by the provisions of KRS 243.630, 243.640, 243.650, 243.660 and all other applicable State law. An approval by the State Alcoholic Beverage Control Board of any proposed assignment, transfer or other acquisition of interest in a duly issued alcoholic beverage license shall be deemed an approval by the City, and non-approval by the State shall be deemed as non-approval by the City. No City alcoholic beverage license may be sold, assigned or otherwise transferred unless the proposed transfer has first been approved by the State Alcoholic Beverage Control Board pursuant to applicable state law. A transfer fee of \$25 shall be paid to the City upon any permitted assignment or transfer of an alcoholic beverage license.
- B. In the event that an alcoholic beverage license has been lost or destroyed, the local ABC Administrator may issue a duplicate or replacement license upon payment of a fee of \$25.

### Section 3.10 POSTING OF LICENSE

Each license issued by the City pursuant to this chapter shall be posted at the licensed premises in the same manner as prescribed by KRS 243.620 for State licenses. An exact duplicate or facsimile of each license issued by the City under this chapter shall remain in the local ABC Administrator's office as part of the public record.

### Section 3.11 WHOLESALE DISTRIBUTORS

Every wholesale distributor of alcoholic beverages who sells or conducts business within the City shall report to the City ABC Administrator on a form to be provided by the City, the following information:

1. The names of all retailers to whom alcoholic beverages were sold in the preceding quarter; and
2. The gross revenues received by the wholesaler or distributor from each retailer.

## ARTICLE FOUR: APPLICATION PROCESS AND ISSUANCE OF LICENSES

### Section 4.01 APPLICATION FOR STATE LICENSE

All applicants for alcoholic beverage licenses available pursuant to this ordinance must submit the appropriate application for issuance of a State license as stipulated in KRS 243.380 and all other applicable State law.

### Section 4.02 LOCAL ADMINISTRATOR TO APPROVE APPLICATION

Pursuant to applicable State law, an applicant for an alcoholic beverage license must first have his State license application approved by the City Alcoholic Beverage Control Administrator before the applicant is eligible to apply for a State license. An applicant for a license under this chapter shall file with the City Alcoholic Beverage Control Administrator a copy of the State license application as required by the State, along with any City license application that may be required. The City license application shall be in a form prescribed by the City ABC Administrator and the application forms shall be made available to interested applicants through the Office of the City Clerk. The City license application shall be properly subscribed and sworn to before a notary public or other officer authorized to administer an oath and shall include an identification of the premises where alcoholic beverages are to be sold, either by way of the street number or otherwise, along with the name of the owner of the premises, and shall be accompanied by a certified copy of the deed or lease agreement through which the applicant holds possessory interest in the premises, in addition to any other information required on the application form as may be prescribed the City ABC Administrator. In the event that the applicant is a corporation or a limited liability company, the applicant shall provide personal information as may be required on the application form (by way of example, name, age, date of birth, Social Security number, address, etc.) of each shareholder, officer and/or director of the corporation and/or member of the limited liability company, whichever applies.

### Section 4.03 APPLICANT'S CONSENT TO INSPECTION, SEARCH AND REGULATORY ACTION

The City license application shall include the acknowledged consent of each and every applicant to permit the City ABC Administrator and his designees 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, to order an emergency temporary closure of the premises if the public health, safety, morals and/or welfare is threatened by

one or more violation of any ordinance or statute involving disturbance of the peace or public disorder. A temporary closure of the licensed premises is permitted hereunder and shall remain in effect until review of the alleged violations by the City ABC Administrator which shall be completed within thirty-six (36) hours after the order of temporary closure becomes effective. Upon expiration of the 36-hour period of temporary closure, the City ABC Administrator shall either suspend or revoke the license pursuant to the provisions of this ordinance, in the event that sufficient grounds for suspension or revocation are found, or else vacate the order of temporary closure.

**Section 4.04 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE, OR  
SUSPENSION OR REVOCATION OF LICENSE**

**A. STATE LAW REFERENCES**

Causes for refusal to issue or renew a City license or for suspension or revocation of a City license shall be the same as provided for State licenses pursuant to KRS 243.450, 243.490, and 243.500.

**B. VIOLATION OF CITY ORDINANCES**

In addition to the above State law references, violation of any City ordinance concerning alcoholic beverage licensing, sales or the administration thereof shall also be grounds for refusal to issue or renew a license or suspension or revocation of a license.

**C. DELINQUENT TAXES OR FEES**

No license for the sale or trafficking of alcoholic beverages shall be granted or renewed to any person or entity that is delinquent in the payment of any taxes or fees due the City at the time of application for the license; nor shall any license be granted or renewed to sell alcoholic beverages upon any premises or property, owned and/or occupied by the licensee, for which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes due to the City at anytime during a license period, the license to sell alcoholic beverages shall be subject to revocation or suspension. The City ABC Administrator may, in his discretion, approve a license to sell alcoholic beverages after receiving from the City Clerk a written statement to the effect that the applicant for a license has paid or has made satisfactory arrangements with the City Clerk to pay any indebtedness represented by the unpaid and delinquent taxes or fees.



#### **D. APPEALS**

Appeals may be taken from any decision of the City ABC Administrator to the State Alcoholic Beverage Control Board, pursuant to the provisions of KRS 241.200 and 243.550, and all other applicable State law.

#### **Section 4.05 APPROVAL OR DENIAL OF APPLICATION OR RENEWAL**

- A. If upon review of the license application, the City ABC Administrator determines that the applicant has complied with all requirements and regulatory provisions of this ordinance and applicable state law, that the premises sought to be licensed meets all requirements of this ordinance and applicable State law and that there are no causes for denial of a license, the City ABC Administrator shall approve the application.
- B. If the City 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 violations and requiring the applicant to show cause why the requested license should be issued. The City ABC Administrator shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine any violation set forth in the show cause order issued by the City ABC Administrator. Any decision by the ABC City Administrator on the application shall be subject to appeal as provided under this chapter and applicable State law.

#### **Section 4.06 ISSUANCE OF CITY LICENSE**

Upon issuance of a State license, the requested City license shall be issued, subject to the provisions of this ordinance and State law concerning renewal, revocation and/or suspension. No license shall be issued by the Clerk without the approval of the City ABC Administrator, which approval shall be granted only after the City receives an exact duplicate or facsimile copy of the State license issued to the applicant. The City license shall be in a form as prescribed by the City ABC Administrator and shall conform with the requirements of KRS 243.440.

#### **Section 4.07 POSTING OF LICENSES**

Each City license issued under this ordinance shall be posted at the licensed premises in the same manner as prescribed by KRS 343.620 for State licenses. An exact duplicate or facsimile of each City license issued under this chapter shall remain in the City Clerk's Office as part of the public record.

**Section 4.08 PERSONS WHO MAY NOT RECEIVE A LICENSE****A. PERSON AS APPLICANT**

1. No license shall be issued under this chapter until after the applicant has been issued the appropriate State license by the Commonwealth of Kentucky.
2. No license shall be issued to any person under 21 years of age.
3. No license shall be issued to any person who is not a citizen of the United States and has not had an actual, bona fide residence in this State for at least one (1) year before the date on which his or her application for a license is made.
4. No license shall be issued to any natural person if he or she:
  - a. has been convicted of any felony in the five (5) years immediately preceding the date of application. The five years shall be from the date of conviction, released from custody or incarceration, parole or termination of probation, whichever is later;
  - b. has been convicted of any misdemeanor involving the controlled substances described under Kentucky Revised Statutes 218A.050, 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, or 218A.130 in the two (2) years immediately preceding the application;
  - c. has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the two (2) years immediately preceding the application;  
or
  - d. has had any license issued under this ordinance relating to the regulation or the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such state statute, until the expiration of two (2) years from the date of the revocation or conviction.

**B. CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY AS APPLICANT**

No license shall be issued to a partnership, limited partnership, limited liability company or corporation if:

- i. each member of the partnership or limited liability company, or each of the directors, principal officers, shareholders and managers of the corporate entity do not qualify under subsection A of this section;
- ii. if the applicant has had any license issued under this ordinance relating to the regulation of the manufacture, sale or the transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any criminal offense referenced as set forth above in subsection A(4) of this section, until the expiration of two (2) years from the date of the revocation or conviction; or
- iii. if any member of the partnership, limited partnership, limited liability company, or any director, officer, shareholder or manager of the corporate entity has had any license issued under any statute relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause or has been convicted of any criminal offense referenced as set forth above in subsection A(4) of this section, until expiration of the latter of two (2) years from the date of revocation or two (2) years from the date of conviction.

## ARTICLE FIVE: PROHIBITIONS, RESTRICTIONS AND GENERAL REGULATIONS

### Section 5.01 HOURS OF SALE

- A. Premises for which there has been granted a license for the retail sales of alcoholic beverages shall be permitted to sell or offer for sale alcoholic beverages only between the hours of 6:00 A.M. and 12:00 A.M. each day, except Sunday, subject to the exceptions set forth in Subsection B below. It shall be unlawful to sell or offer for sale any alcoholic beverage during the twenty-four (24) hours of each Sunday.
- B. Exception. On each New Years Eve (December 31), any retail licensee shall be permitted to sell any alcoholic beverages the licensee is otherwise permitted to sell until the hour of 1:00 A.M. on January 1. However, this exception shall not apply should New Years Eve fall on a Sunday.

- C. It shall be unlawful to keep open for business or permit the public to remain within, or to permit consumption of alcoholic beverages in or upon any premises in which alcoholic beverages are sold at retail during the hours within which the sale of alcoholic beverages is prohibited; provided, however, that in the case of bona fide restaurants and hotels/motels/inns, such establishments may be kept open for business during such hours when alcoholic beverage sales are prohibited, but no alcoholic beverages may be sold to the public during such hours.
- D. Consumption of alcoholic beverages on licensed premises may not continue for more than thirty (30) minutes after the hours set forth herein for the sales of alcoholic beverages to cease. Provided, however, that this section limiting the time for consumption of alcoholic beverage on licensed premises shall not apply to hotels, motels and inns.

~~It shall be unlawful to sell or offer for sale, at retail, in or upon any licensed premises, any alcoholic beverages on the day of any general, state, county, municipal or school election, including primary elections, during the hours in which the polls are open at the precinct in which such election is being held.~~

#### Section 5.02 ADVERTISING RESTRICTIONS

- A. **Signage.** Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of display advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on or be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the window of the licensed premises menus or other price cards not larger than 11"x14" in size, setting forth the price at which the licensee offers items for sale, including alcoholic beverages.
- B. No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.
- C. It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars or cards as a medium for advertising alcoholic beverages.

- D. Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

#### **Section 5.03 LICENSE TO BECOME VOID IF BUSINESS DORMANT**

Any license for the sale of alcoholic beverages issued under this chapter shall become null and void in the event that no business is transacted under the license for a period of ninety (90) days. If no business is transacted under any license issued under this chapter during any consecutive 90-day period, the license shall be surrendered to the City 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 4:110, as amended from time to time, to continue such license in dormancy. In the event that a period of dormancy is applied for and granted by the State ABC Administrator, the licensee shall immediately notify the City ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City ABC Administrator and a fee shall be due and payable for the period the license was in dormancy in the same amount due had the license remained active for the same period.

#### **Section 5.04 LICENSEE TO DISPLAY WARNING TO MINORS**

It shall be the duty of every retail licensee to display at all times in a prominent place a printed card not smaller than 12"x16" which shall read substantially as follows:

**WARNING TO MINORS: ANY PERSON UNDER THE AGE OF TWENTY-ONE (21) ARE SUBJECT TO A FINE OF UP TO ONE HUNDRED DOLLARS (\$100) IF THEY:**

1. Enter licensed premises to buy, or have served to them, alcoholic beverages;
2. Purchase or attempt to buy, or have served to them, alcoholic beverages;
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

#### **Section 5.05 ACCOUNTING REQUIREMENT**

Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involving the sale of alcoholic beverages

and food in the same manner required by the reasonable 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 City ABC Administrator. Such books and records shall be made available at all reasonable times for inspection by the City ABC Administrator or his appointed designee.

#### **Section 5.06 LICENSEE TO OBTAIN COPY OF ORDINANCE**

- A. Upon timely request by the licensee, the City ABC Administrator shall furnish to each and every licensee a copy of this chapter at the time the license is issued with signed receipt from the licensee. Any changes or amendments to this ordinance shall be forwarded to each licensee at the address on the license. Failure to receive or review such changes or amendments or review the chapter shall not be an excuse or justification for any violation, nor shall failure to receive or review any changes or amendments prevent, remit or decrease any penalty for any violation of this ordinance.
- B. It shall be the duty of the licensee under this ordinance to obtain a copy of this ordinance from the City ABC Administrator. Further, the cost of obtaining a copy of this ordinance shall be borne by the licensee.

#### **Section 5.07 INSPECTIONS**

Every applicant procuring a license pursuant to this ordinance consents and must submit to the entry upon licensed premises by the State or City police, the City ABC Administrator or other duly authorized representative of the City or State at all reasonable hours for the purpose of inspection and search of the premises, and consents to the removal from the premises of all things and articles contained on the premises in violation of city ordinances or state law, and consents to the introduction of such things and articles into evidence of any prosecution that may be brought for such offenses.

#### **Section 5.08 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING**

- A. All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a City approved responsible beverage service training program, such as the Server Training in Alcohol Regulations ("S.T.A.R.") training offered by the Commonwealth of Kentucky, Alcoholic Beverage Control Office. For a responsible beverage service training program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxication. The City

- will not require enrollment in any particular classes, but only that the training be obtained from a recognized program meeting the goals expressed in this section.**
- B. All persons required to complete training under subsection A, above, shall complete such training within thirty (30) days of the date on which the person first becomes subject to the training requirement. When a new business is licensed to serve alcoholic beverages, all employees must be trained prior to the opening of the business.**
- C. The licensee or the managing agent of the licensee shall be responsible for compliance with the training requirements set forth in this section and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed under this ordinance must at all times when alcoholic beverages are being served have at least one (1) person currently certified in responsible beverage service training on duty.**
- D. All persons completing the training required under this section shall be re-certified in responsible beverage service training from a program approved by the City not less than once every three (3) years thereafter.**

## **ARTICLE SIX: CONDUCT, LOCATION, PREMISES AND STRUCTURE REQUIREMENTS**

### **Section 6.01 CONDUCT REQUIREMENT**

Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed at any time on any licensed premises.

### **Section 6.02 ZONING RESTRICTIONS; LOCATION, PREMISES AND STRUCTURE REQUIREMENTS**

- A. No license shall be issued under this chapter for the sale or trafficking in any alcoholic beverages at any premises or location where such business is prohibited under the City's zoning ordinances or any other ordinances of the City as may be amended or supplemented from time to time, and any license issued in violation of this section shall be null and void.**
- B. No ~~liquor~~ license [quota retail package license] shall be granted or issued for any premises located within one thousand (1,000) feet of**

the location of any other premises holding a ~~retail package license~~  
~~(distilled spirits and wine). [quota retail package license.]~~

- C. The distance between locations of premises as prescribed by this section shall be measured by following the shortest route of ordinary pedestrian travel along public thoroughfares from the nearest point of any present location of any such premises to the nearest point of any proposed licensed premises. The measurements shall be taken from the entrance of existing licensed premises to the entrance of any proposed location.
- D. No license shall be issued under this chapter unless the premises to be licensed conforms to the sanitary, safety and building code requirements of the City and rules and regulations of the State Board of Health applicable thereto. Further, the City ABC Administrator shall not grant any alcoholic beverage license until the license applicant and the intended licensed premises have been approved by the State Health Department and City Code Enforcement Officer with respect to all applicable building codes.
- E. Any licensee holding a license which permits the sale and consumption of alcoholic beverages on the premises where sold shall maintain an easily discernible physical barrier between the general dining area and any bar area. The separate bar area shall be posted "Persons under 21 (21) years of age may not enter or remain in this area".

## ARTICLE SEVEN: REGULATORY LICENSE FEE

### Section 7.01 IMPOSITION OF REGULATORY LICENSE FEE

A regulatory license fee is hereby imposed on the gross receipts from the sale of alcoholic beverages permitted pursuant to licenses issued under this ordinance. This regulatory license fee, as initially established by this ordinance, shall be for the effective date of June 1, 2009 through May 31, 2010. Thereafter, the City Council shall annually adopt at the time in which each fiscal year budget is adopted, such percentage rate for the regulatory license fee hereby imposed as shall be reasonably estimated to ensure full reimbursement to the City for the cost of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages. Such regulatory license fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such regulatory license fee shall be allowed in an amount equal to the license fee imposed under this chapter and required to be paid at the time of license application or renewal, and such regulatory license fee shall be applied annually.



### **Section 7.02 REGULATORY LICENSE FEE PERCENTAGE RATE**

- A. The regulatory license fee imposed under this ordinance shall be five per cent (5%) of the gross sales receipts for all alcoholic beverages sold for the licensing year beginning June 1, 2009.**
- B. The regulatory license fee established above in subsection (A) shall continue until amended or repealed by the City Council through amended ordinance.**

### **Section 7.03 PAYMENT OF REGULATORY LICENSE FEE**

- A. The regulatory license fees as established hereunder shall be paid on a monthly basis, and the monthly payment of such fees shall be accompanied by tax returns approved for use by the City ABC Administrator and the City Clerk. The monthly tax return forms shall be submitted to the local ABC Administrator by the 20<sup>th</sup> day of each month to indicate the preceding month's sales. An amount equal to one-twelfth (1/12) of the annual license fees required for each licensee under this chapter may be deducted each month as a credit to the monthly regulatory license fee required.**
- B. Failure to pay such monthly remittance as set forth above in Section 7.01 and Section 7.02 within ten (10) days of the due date constitutes a violation of this ordinance and subjects the licensee to suspension or revocation of all licenses issued pursuant to this ordinance.**
- C. The penalty for failure to file the required tax return and pay monthly remittance of the regulatory license fee by the due date indicated above shall be twenty per cent (20%) of the regulatory license fee due.**
- D. Interest on unpaid regulatory license fees due shall be calculated at the rate of twelve per cent (12%) per annum.**

## **ARTICLE EIGHT: PENALTY FOR VIOLATIONS**

### **Section 8.01 PENALTY FOR VIOLATIONS**


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

- 1. For the first offense, a fine not to exceed Five Hundred Dollars (\$500); and
  - 2. For any subsequent offense, a fine not to exceed Five Hundred Dollars (\$500) or confinement in jail not more than six (6) months, or both.
- B. In addition to any other penalty provided for herein or as provided under any other applicable federal, state or local law or regulation, any licensee violating any provision of this ordinance shall be subject to suspension or revocation of any and all licenses issued under this chapter.


PASSED AND APPROVED ON FIRST READING, THIS 26 DAY OF November, 2013.

PASSED AND APPROVED ON SECOND READING AND PUBLICATION ORDERED, THIS 2 DAY OF December, 2013.

APPROVED:

  
 \_\_\_\_\_  
 BOB PORTER, MAYOR

ATTEST:

  
 \_\_\_\_\_  
 VIRGIE CASTLE, CITY CLERK

## **CERTIFICATION OF ELECTION**

KRS 242.110 requires the results of a local option election be certified by the county board of elections, filed with the county clerk, and entered by the county judge executive in the order book. A copy of this certification, along with a copy of the ballot showing the question(s) appearing on the ballot must be on file with the Frankfort ABC Office.

## **DISCONTINUANCE OF PROHIBITION – EFFECTIVE DATE**

KRS 242.200, When a majority of the votes cast at an election are in favor of the discontinuance of prohibition in a territory, prohibition shall cease to be in force and effect at the expiration of sixty (60) days from the date of the entry of the certificate of the county board of election commissioners in the order book of the county judge/executive.

## **APPOINTMENT OF CITY ADMINISTRATOR**

KRS 241.170 (2), the city administrator in each city of the second, third, or fourth class shall be appointed by the city manager if there is one. If there is no city manager, the city administrator shall be appointed by the mayor. KRS 241.180, city administrator shall take the oath prescribed in Section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of not less than (\$1,000.00).

## **CITY ORDINANCE**

A copy of your city ordinance should be filed with the Frankfort ABC Office. Kentucky law allows the legislative body to impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages in wet territory. KRS 243.070 establishes the license types and maximum amount that particular class of cities may charge.

## **STATE LICENSE FEES AND EXPIRATION DATE OF LICENSES**

State fees for distilled spirits and wine are issued under KRS 243.030 (by the drink and package liquor fees for the City of Paintsville are set by fourth class), and malt beverage fees are issued under KRS 243.040. All licensees are required to pay a full year's fee if the license will be issued for 6 months or more. If the license is issued for less than 6 months, one half (½) of the annual fee is charged.

ABC licenses in the City of Paintsville will expire on May 31<sup>st</sup> of each year. License expiration dates are staggered throughout the state depending on zip code.

## **FOURTH CLASS CITIES**

After a local option election is held, whereby the majority of the votes were against prohibition, licenses can be issued for the retail sale of distilled spirits and wine by the package for consumption off premises, and the sale of malt beverages (beer) by the package for consumption off premises and by the drink for consumption on premises. According to an attorney General's Opinion a restaurant wine license (authorizing the sale of wine at restaurants which seat 50 persons at tables and receives 50% of their gross annual income from the sale of food) may be issued in a city of the fourth class that has held a local option election and voted to go wet. A distilled spirits and wine retail package licensee may apply for a package sampling license in accordance with KRS 244.050 (2) and (3).

### **BY THE DRINK**

KRS 243.230 (2) allows the issuance of distilled spirits and wine by the drink licenses to a city of the fourth class in which the majority of votes cast in the most recent election held under KRS 242.127 were in favor of the proposition voted upon if the city has an adequate police force.

KRS 242.127 allows a city of the fourth class to hold an election to take the sense of the people of the city as to the sale of distilled spirits and wine by the drink for consumption on the premises in the city. This election must be citywide.

KRS 242.185 (2) allows a city of the fourth class or a county containing a city of the fourth class to enact a comprehensive, regulatory ordinance upon the determination by the legislative body that an economic hardship exists within the city or county and that the sale of distilled spirits and wine by the drink could aid economic growth. KRS 242.185 (3) authorizes licenses be issued only to hotels, motels, or inns containing not less than fifty (50) sleeping units and 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**. KRS 242.185 (4) allows the city or county legislative body to provide for the issuance of any other license permitted by KRS 243.070, which includes temporary drink, private clubs, and caterer's licenses. (Please refer to that statute entitled City licenses for a complete listing. **Note:** Since all retail drink liquor licenses are under a "quota" system, this type of license may not be issued under an ordinance.)

### **SUNDAY LICENSES**

KRS 244.290 allows a city of the fourth class to enact a regulatory ordinance to allow distilled spirits and wine by the drink or by the package to be sold on Sunday.

## **RETAIL LIQUOR BY PACKAGE QUOTA LICENSE**

Retail liquor license limit is set by 804 KAR 9:010. KRS 241.060 (2) authorizes the ABC Board to limit the number of licenses to be issued in any county of the Commonwealth. This administrative regulation establishes the basis of this limitation and establishes the manner in which the population of a county is to be ascertained for purposes of the number of licenses in a county. Section 1., The number of retail package liquor licenses issued by the Alcoholic Beverage Control Board in any county of the Commonwealth shall not exceed a number equal to one (1) for every 2,300 person resident. Section 2. (1), The number of retail drink liquor licenses issued by the Alcoholic Beverage Control Board in any county of the Commonwealth shall not exceed a number equal to one (1) for every 2, 500 persons resident.

804 KAR 9:040 Retail package liquor license quota. This administrative regulation is necessary to establish individual quotas for smaller political subdivisions within a county when the general retail liquor license quota established in 804 KAR 9:010, if applied, would result in the issuance of an impermissible number of licenses disproportionate to the population of the political subdivision. The function of this administrative regulation is to establish individual retail liquor license quotas for political subdivisions of a county in which a prohibition has been repealed.

KRS 241.080 Powers of state administrators as to issuance of licenses. The administrator of the Distilled Spirits Unit may issue or refuse to issue any state license provided for in KRS 243.020 to 243.670 authorizing traffic in distilled spirits and wine. The administrator of the Malt Beverage Unit may issue or refuse to issue any state license provided for in KRS 243.020 to 243.670 authorizing traffic in malt beverages.

## **RETAIL LIQUOR BY PACKAGE QUOTA LICENSE SET FOR PAINTSVILLE**

Once the number of liquor package quota license has been established for the City of Paintsville the State ABC Office will advertise in the largest circulated newspaper in Johnson County the number of vacancies for new liquor package quota licenses and applications will be received for a period of thirty (30) days following the announcement.

## **ARE THERE ANY RESTRICTIONS AGAINST PERSONS APPLYING FOR LICENSE?**

No natural person shall hold any alcoholic beverage license who is under the age of 21; is not a citizen of the United States; has not maintained an actual residence in Kentucky for 1 year; who has been convicted of any felony until 5 years have passed from the date of conviction, release from custody, parole or termination of probation, whichever is later; has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages within 2 years; or has had any alcoholic beverage license revoked until 2 years have passed from the date of revocation. KRS 243.100

No partnership, limited partnership, limited liability company or corporation shall hold any alcoholic beverage license if the directors, officers, or managers are under the age of 21; have been convicted of any felony or misdemeanor outlined in the above paragraph; and has had any alcoholic beverage license revoked until two years have passed from the date of revocation. KRS 243.100

Police record checks are conducted on all persons, directors, officers, members, and shareholders. These records are obtained from the Administrative Office of the Courts on all Kentucky residents at a charge of \$15.00 per person. Fees must be submitted along with their state applications. All **out-of-state backgrounds** must be submitted by the applicant from their state of residence.

### **Application Process**

Application packets are available at the state ABC office, the local ABC office, or from our web site at <http://abc.ky.gov>. The instruction sheet will take you step by step through the process required to apply for licenses.

All applications are to be approved by the local ABC Administrator for the City of Paintsville prior to being mailed to the State ABC office. When a local ABC Administrator signs an application, the signature acknowledges that the city intends to issue a local license, and the premises are located in wet territory, are zoned properly, and meet all local ordinances. Most cities do not issue the actual local license until the state license has been issued and the applicant must have both licenses to operate. Our office will fax a copy of the state license to the local administrator once it has been issued.