

CITY OF WILLIAMSBURG, KENTUCKY
ORDINANCE NO. 16-007

AN ORDINANCE REPEALING ORDINANCE NO. 12-005 IN ITS ENTIRETY, ENACTED ON MAY 16, 2012 AND ESTABLISHING THE NEW CITY OF WILLIAMSBURG, KENTUCKY, REGULATIONS AND REQUIREMENTS FOR ALCOHOL BEVERAGE CONTROL, HEREINAFTER TO BE KNOWN AS THE CITY OF WILLIAMSBURG "ALCOHOLIC BEVERAGE CONTROL ORDINANCE" NO. 16-007; AND FURTHER ADOPTING ALL APPLICABLE REQUIRED KRS, INCLUDING BUT NOT LIMITED TO, KRS CHAPTERS 241 THROUGH 244 AS RECENTLY UPDATED BY THE GENERAL ASSEMBLY AND ADMINISTRATIVE AGENCIES; AND

WHEREAS, on June 28th, 2016, a local option election was held and, by and through a majority of registered voters, permits the presence of alcohol, manufacturing of alcohol, and sales of alcohol within the corporate limits of the City of Williamsburg so long as such is done in accordance with all applicable local, state and federal law; and

WHEREAS, the City of Williamsburg therefore has established uniform regulations and requirements for the licensing and regulation of alcoholic beverages, manufacturing, and sales pursuant to authorization under KRS Chapters 241 through 244, and all other applicable law;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF WILLIAMSBURG, KENTUCKY, THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

ARTICLE I. GENERAL

- A. This Ordinance shall be known as the "Alcoholic Beverage Control Ordinance" of the City of Williamsburg, Kentucky (hereinafter referred to as the city).
- B. The purpose of this Ordinance is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS Ch. 241 through 244.
- C. The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the Kentucky Alcoholic Beverage Control law (KRS Ch. 241 through 244) of the Commonwealth of Kentucky and all amendments are supplements thereto.
- D. This Ordinance shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this chapter shall excuse or relieve the licensee, or the owner,

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

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

ARTICLE II. LICENSE REQUIREMENTS

A. City License:

For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in KRS 243.070.

The fee for each city license shall be as set out in the schedule set forth below.

In the event KRS 243.070 shall hereafter be amended to authorize additional city licenses, the fee for each city license shall be the maximum fee provided in the statute as amended.

(1) Distilled Spirits Licenses as set forth in KRS 243.030.

a. Distiller's License	\$150.00
b. Rectifier's License	\$150.00
c. Wholesaler's License	\$150.00
d. Quota Retail Package License	\$150.00

(2) Special temporary license, *per event*

\$ 50.00

(3) Non-quota Type 1 Retail Drink License (Includes distilled spirits, wine, and malt beverages)

\$150.00

(4) Non-quota Type 2 Retail Drink License (Includes distilled spirits, wine and malt beverages)

\$150.00

(5) Non-quota Type 3 Retail Drink License (Includes distilled spirits, wine and malt beverages)

\$150.00

(6) Distilled Spirits and Wine Special Temporary Auction License, <i>Per Event</i>	\$150.00
(7) Special Sunday Retail Drink License	\$150.00
(8) Extended Hours Supplement License	\$2,000.00
(9) Caterer's License	\$150.00
(10) Bottling House or Bottling House Storage License	\$150.00
(11) Malt Beverage License fees as follows:	
a. Brewer's License	\$150.00
b. Microbrewery License	\$150.00
c. Malt Beverage Distributor's License	\$150.00
d. Non-quota Retail Malt Beverage Package License	\$150.00
e. Non-quota Type 4 Retail Malt Beverage Drink License	\$150.00
f. Malt Beverage Brew-on-Premises License	\$150.00
(12) Limited Restaurant License	\$150.00
(13) Limited Golf Course License (Includes distilled spirits, wine, and malt beverages)	\$150.00
(14) Private Club License (NQ3)	\$150.00
(15) Convention Center	\$2,000.00

B. Certain Special Licenses defined:

(Please note that the following is an updated/amended explanation and description of license types consistent with amendments made to KRS 243.070, which took effect June 25, 2013, and became enforceable thereafter via timetables set by the State ABC Administrative Office.)

(1) Limited Restaurant License

A Limited Restaurant License may be issued pursuant to KRS Chapter 243, if said restaurant meets the definition of a **"Limited Restaurant"** as set forth in KRS 241.010 (31) if it is 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, and which maintains a seating capacity of either one hundred (100) or fifty (50) persons for dining.** If the limited restaurant only maintains seating capacity for fifty (50) persons, it shall not have open bar and all alcoholic beverages shall be sold in conjunction with the sale of a meal. Distilled Spirits, wine, and malt beverages shall be deemed to be purchased in conjunction with a meal if the distilled spirits, wine, and malt beverage are served after the meal is ordered and no more than one-half (1/2) hour after the meal is completed.

(2) Limited Golf Course License

A limited Golf Course License may be issued pursuant to KRS Chapter 243 if an establishment meets the following conditions: a golf course with nine (9), or eighteen (18), holes that meets United States Golf Association criteria as a regulation golf course. A Limited Golf Course License shall authorize the license to purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premise.

(3) Non-quota Type 1 Retail Drink License

A Non-quota Retail Drink License may be issued to the following pursuant to and defined by KRS: **a convention Center or a Convention Hotel Complex; a Horse Racetrack; an Automobile Racetrack; a Railroad System; a Commercial Airlines System or Charter Flight System.**

(4) Non-quota Type 2 Retail Drink License

A Non-quota Retail Drink License may be issued pursuant to and as defined in KRS for the following: **a Hotel that contains at least fifty (50) sleeping units, contains dining facilities for at least one hundred (100) persons, and receives from its total food and beverage sales at least fifty percent (50%) of its gross receipts from the sale of food; a Restaurant with a minimum eating for fifty (50) consumers at tables; an Airport; or a Riverboat.**

(Please note: A Restaurant holding a Non-quota Type 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, distilled spirits, and malt beverages at retail by the drink for consumption on the licensed premises.)

(5) Non-quota Type 3 Retail Drink License

A Non-quota 3 Retail Drink License may be issued pursuant to and defined by KRS to the following: **a Private Club in existence for longer than one (1) year prior to the license application; a Dining Car.**

(Please note: A Non-quota Type 3 Retail Drink License issued to a Private Club shall authorize the licensee to exercise the privileges of a Non-quota Type 2 Retail Drink License at the designated premises if the general public is excluded.)

(6) Non-quota Type 4 Retail Malt Beverage

A Non-quota Type 4 Retail Malt Beverage License may be issued pursuant to and as defined in KRS to the following: **a holder of a quota retail drink license; a holder of a microbrewery license; a holder of a small farm winery license; and any other business wishing to sell malt beverages by the drink for consumption on the premises only.** A Non-quota Retail Malt Beverage Drink License **shall not be issued to any premises from which gasoline and lubricating oil are sold, or from which the servicing repair of motor vehicles is conducted, unless there is maintained in inventory for sale on the premises at retail not less than five thousand dollars (\$5,000) of food, groceries, and related products valued at cost.**

(7) Special Temporary License

A Special Temporary License may be issued only as set forth in KRS 243.260. **Such a license may be issued to any regularly organized Fair, Exposition, Racing Association, or other party all as defined applicable KRS.** This license shall authorize the licensee to exercise the privileges of a Quota Retail Drink License *and* a Non-quota Type 4 Malt Beverage Drink License at designated premises for a specified and limited time, which shall not exceed thirty (30) days and which shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine Quota Retail Drink License or a Non-quota Retail Malt Beverage Drink License shall apply also to a Special Temporary Licensee as described in this section.

The ABC Administrator shall only issue one Special Temporary License per event. All sales are required to be served in colored plastic or styrofoam container, other than original.

(8) No Special licensee shall offer distilled spirits and wine for sale at any time between 12:00 midnight on Saturday and 6:00 a.m. on Monday unless the licensee shall have obtained a special license for Sunday sales.

(9) All restrictions and prohibitions applying to a regular retail licensee shall apply to special licenses, unless otherwise provided by law.

C. Expiration of License; Proration of Fees:

All City Licenses, except temporary license, shall begin on May 1st of any year and shall expire on April 30th of the following year. Any licenses issued after October 31st of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period; however, the cost of any license shall not be less than one-half (1/2) the amount of the full fee for an annual license of that type.

D. Payment of License Fees; Delinquency:

No licensee shall enter into or begin operating any business for which a license is required by this chapter until the license fee has been paid in full. The fee for renewal of any license shall be paid with the renewal application. **Failure to pay any license fee within ten (10) days after it becomes due shall result in a penalty equal to ten percent (10%) of the license fee.** Any licensee failing to pay the fees, including penalties, within ten (10) days after such fees are due may be subject to revocation of the license and to other penalties as provided in this Ordinance.

E. Refund of Fees:

- (1) Should any licensee under this Ordinance be prohibited from conducting the licensed business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth with reference to alcoholic beverages or other cause outside licensee's control, then the city shall refund to licensee the proportionate part of the license fee for the period during which licensee is prevented from carrying on said business if the licensee provides sufficient proof to the City ABC Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee, or an agent or employee of the licensee.
- (2) In the event a violation this Ordinance occurs that results in the suspension or revocation of the license, the city shall not be required to refund any portion of the license fee.

F. Regulatory License Fee:

- (1) Pursuant to KRS 243.075, there is hereby imposed a Regulatory License Fee on the gross receipts of sale of alcoholic beverages of each licensee who has a local license issued by the City ABC Administrator. **The City's Regulatory License Fee shall be seven percent (7%) of gross sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and wine, the Regulatory License Fee shall be five percent (5%) of gross sales. The Regulatory License Fee shall be four percent (4%) on gross retail sale of package malt beverages.**

(Please note: the City Council may adopt with the budget for each subsequent fiscal year, such annual rate for the regulatory license fee as shall be reasonably estimated to ensure full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expense related to the sale of alcoholic beverages in the city. Should the city fail to address the regulatory license fee in any budget, then the regulatory license fee shall remain at the level at which it was last fixed in this ABC Ordinance until such time as the City Council shall adjust the fee.)

- (2) Payment of said regulatory fee shall be readmitted to the City ABC Administrator, who shall transmit all fees to the City Clerk, or his designee, for deposit into the appropriate designated account. The city may use said fees as permitted by law, including but not limited to, any 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 fees or licenses permitted by law, except that a credit against a regulatory license fee in the city shall be allowed in an amount equal to any license fee shall be based on paperwork required by the local and/or state ABC Administrator, which may include but is not limited to tax return and financial statements. Said paperwork and payment will be due according to the schedule set forth by the Mayor, or his designee, which may be set at, but it not limited to, time periods consisting of a monthly or quarterly billing by the local ABC office and/or the City of Williamsburg.

- (3) Failure to pay such remittance within ten (10) days of the due date constitutes a violation and shall subject a licensee to suspension or revocation.
- (4) **Penalty for failure to file a return pay remittance by the due date is five percent (5%) of the regulatory fee for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the regulatory fee; provided, however, that in no case shall the penalty be less than ten dollars (\$10.00).**
- (5) **Interest at the rate of eight percent (8%) per annum will apply to any late payments.**

G. Disposition of Fees and any other type of payment to the City:

The City ABC Administrator shall transmit all fees and any other types of payments made to the city, upon collection, to the City Clerk, or his/her designee, for deposit into the appropriate designated account.

ARTICLE III. CITY ALCOHOL BEVERAGE CONTROL ADMINISTRATOR

A. Alcoholic Beverage Control Administrator

- (1) As provided by KRS 241.160, cities of first, second, third, and fourth class in which alcoholic beverages are permitted shall have City Alcoholic Beverage Control (ABC) Administrators. The duties of the ABC Administrator shall be assigned to the office of the Mayor. The local ABC Administrator may recommend regulations as may be necessary to implement this chapter; any such regulations presented to the City Council for approval. The Mayor can initially assume the responsibility of the ABC Administrator however he/she may designate a person to the position. The Mayor will also determine the salary of the ABC Administrator, as with other city held positions.

B. Oath and Bond of Local ABC Administrator and Employees

- (1) The ABC Administrator before entering upon his duties as such, shall take the oath prescribed in KRS 241.180, and shall execute a bond with a good standing corporate surety in the amount of not less than one thousand dollars,(\$1,000.00).
- (2) The ABC Administrator may require any city employee under his

supervision to execute a similar bond in such amount, as he deems necessary.

- (3) The functions of the City ABC Administrator shall be the same with respect to the city licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, except that no amendments to this Ordinance may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No amended or additional regulation shall become effective until the City Council has first appropriately approved it by adopting an amendment to this Ordinance required by law.
- (4) To prevent potential conflicts of interests, no person shall be a City ABC Administrator, an investigator, or an employee of the city, under the supervision of the City ABD Administrator, who would be disqualified to be a member of the ABC Board under state law set forth in KRS 241.100.
- (5) The City ABC Administrator shall have authority delegated by the Mayor, and as authorized under KRS Ch. 241 through 244. The City ABC Administrator, along with any designated City ABC Administration investigator(s) shall have full police powers of law enforcement, and their jurisdiction shall be co-extensive with the boundaries of the city. They, along with the City of Williamsburg law enforcement may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.
- (6) Should the City ABC Administrator, or the designated ABC Administration investigator(s) at any time have reasonable grounds to believe that any applicant, licensee, employee of a license, or any stockholder, agent or employee of licensed corporation, LLC or other business organization, has a criminal record, they shall have the authority to require such person to appear at the City of Williamsburg Police Department for the purpose of having his or her fingerprints taken.
- (7) The City ABC Administrator and his investigators shall have available at all reasonable times for their inspection, all books and records required to be maintained by licensees under KRS 244.150 and the City ABC Administrator shall receive copies of all reports submitted by licensee to the State Alcoholic Beverage Control Board.
- (8) Reserved

C. Appeals

- (1) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the City ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.
 - a. When any decision of the City ABC Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the city, and the ABC Board shall have made a decision regarding

such appeal or protested application, the City ABC Administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by the final order of the ABC Board. As provided by law, and used herein, no order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A "final order" of the ABC Board is the order entered by said Board, unless an appeal is taken from the board's order, in which case the "final order" is the order entered by the board upon direction from the reviewing court of last resort in the final order of said reviewing court.

ARTICLE IV. APPLICATION AND MAINTENANCE OF LICENSE

A. Advertisement

Before an application for a license shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in a newspaper meeting the requirements of KRS Ch. 424, including the following:

- (1) The advertisements shall state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership of the LLC if the applicant is an LLC, as well as the name of this business and its address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the license is sought, and the type of license for which application is made.
- (2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication is provided in KRS 424.170.

B. Form of Application

- (1) All licenses granted under this chapter shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by Kentucky ABC Board and/or the City of Williamsburg. Both of which may be amended and supplemented from time to time by each responsive agency.
- (2) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought, as required by the Kentucky revised Statutes, the state ABC Board, and the City of Williamsburg, including as follows:
 - (a) Name and address;
 - (b) Nature of interest;
 - (c) Whether or not a citizen of the United States;

- (d) Date of birth;
 - (e) Date of residence was established in Kentucky, if a resident of Kentucky.
 - (f) Whether or not he or she has any interest in any other license or LLC, corporation, partnership or other business organization holding a license under this Ordinance;
 - (g) Extent of stock or company ownership;
 - (h) Whether or not he or she has any interest in any license or LLC, corporation, partnership or other business organization holding a license in any other state or province.
- (3) Each application shall be accompanied by a certified check, cashier check, or money order for the amount of the license fee.
- (4) In addition to the above specified information, the applicant shall file with the applications, responses to any additional questions as may be posed or prescribed by the City ABC Administrator. The City Council has adopted a statement of guidelines and priorities for the issuance of licenses within this Ordinance to determine the extent to which applications may further, or impede, the objectives of those guidelines. Therefore, in addition to the information contained in the application, the City ABC Administrator may require such other information as the Administrator may, in his or her discretion, deem desirable, reasonable, or appropriate to the consideration of the application.

C. Other Conditions

In addition to any other inquiries, conditions or considerations required or permitted by law:

- (1) The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by the City Zoning and/or Building Inspector, and any and all other inspections required by the Kentucky Building Code or other applicable law;
- (2) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator; and
- (3) **No license to sell alcohol or malt beverages may be granted or renewed to any person who is delinquent in the payment of any property taxes, both real and personal, any other taxes due to the City, fees of any type, or charges due to any department of the city at the time of issuing the license, nor may any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any of the above delinquent payments due and owing to the City. Further, if a licensee becomes delinquent in the payment of any of the above at any**

time during the license period, the license to sell alcoholic or malt beverages may be subject to revocation or suspension.

- (4) No person, whether applicant for license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the City ABC Administrator, or any member of the City's staff, or a State ABC Administrator or staff, in any manner in which an application or proposed application for license, or procedure for revocation or suspension is pending before such officer. This division is not intended to stifle expressions or opinion; however, it is intended to make clear that the ABC Administrators are public officials charged with the administration and enforcement of the law, both local and state. Any person applying for a license, or contesting the revocation or suspension of a license, who engages in attempted bribes, threats, attempted undue influence or intimidation of a city or state ABC Administrator or staff shall be disqualified from receiving or retaining a license, in addition to other penalties as provided by law. The procedures for appeals shall apply to disqualifications, revocations or suspensions under this Ordinance. Nothing in this Ordinance shall be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after a final order or revocation or suspension, where the ordinance and applicable statutes allow for such payments in settlement.

D. Form of License

All city licenses shall be in such form as may be provided by the ABC Administrator, but at the least per state law shall contain:

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, of the licensed premises;
- (5) The name and address of the owner of the building in which the licensed premises are located;
- (6) The expiration date of the license;
- (7) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

E. Change of Information

- (1) If after a license to individuals or to a sole proprietor has been issued, there is a change in any fact required to be set forth in the application, a verified amendment in writing giving notice of the change shall be filled with the City ABC Administrator with ten (10) days of the change.
- (2) Since a number of licenses issued by the city are in the name of corporations or other business organizations, it is necessary that ownership changes in such

organizations can be reported to the City ABC Administrator. The City ABC Administrator can, therefore, investigate the person to whom the ownership or management is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(a) As used with regard to a partnership, corporation, LLC or other business organization herein, the word "change" is constructed to include any change in managers, partners or LLC members, directors or officers of the corporation, or change in the ownership or stock whereby any person secures ten percent (10%) of the outstanding ownership or stock. Transfer of more than ten percent (10%) of the total ownership or stock shall require a new license.

(b) The following information shall be required concerning any new manager, partner or LLC member, new director, officer, or person securing any interest in alcoholic beverage license:

- Name and address;
- Nature of interest;
- Whether or not a citizen of the United States;
- Date of birth;
- Date residence was established in Kentucky, if a resident of Kentucky. If a Williamsburg resident, indicate when residence was established;
- Whether or not he or she has any interest in any other license or in any LLC, corporation, partnership or other business organization holding a license under this act;
- Extent of stock or company ownership;
- Whether or not he or she has any interest in any license or in any LLC, corporation, partnership or other business organization holding a license in any other state or province.

(c) This information shall be filed with the City ABC Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made within ten (10) days of any change of required information.

F. Renewal of License

- (1) **Every year, except in the case of the temporary licenses, each licensee shall renew its license.** All renewal licenses must be on file with the City ABC Administrator no less than thirty (30) days prior to the expiration of the license for the preceding license period or the same shall be canceled, except where the

licensee is unable to continue in business at the same premises licensed during the preceding license period as a result of construction, act of God, casualty, death, the acquisition or threatened acquisition of the premises by any federal, state, city or other governmental agency or private organization possessing power of eminent domain, whether such acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease; provided that said licensee shall file a written verified statement no less than twenty (20) days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

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

G. Lost or Destroyed License

When a license shall be lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after the administrator shall have been satisfied as to the facts; provided, however, that the applicant for said duplicate license shall pay a fee of ten dollars (\$10.00) before the duplicate license.

H. Revocation or Suspension

- (1) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the other provisions of KRS Ch. 241 thru 244, or any rule or regulation of the ABC Board, or the Kentucky Department of Revenue, relating to the regulation of the manufacture, sale, and transportation, or taxation, of alcoholic beverages or if such licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency or commission, or this Ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale, and transportation, or taxation, of intoxicating liquors, or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Ch. 241 through 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his or her sound discretion deems sufficient.
- (2) A licensee may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.
- (3) In addition to the foregoing stated causes, any license may be revoked or suspended for the following causes:

- (a) Conviction of the licensee or his or her agent or employee for selling any illegal beverages or illegal substances on the premises licensed.
- (b) Making any false, material statements in an application for a license.
- (c) If within a period of two (2) consecutive years, any licensee or any clerk, servant, agent or employee of the licensee shall have been convicted of two (2) violations of the terms and provisions of KRS Chapter 241 through 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transport of alcoholic beverages or if within such period, any licensee or any clerk, servant, agent or employee of the licensee shall have twice been convicted of any felony or of one (1) such felony and one (1) such misdemeanor.
- (d) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this ordinance, or Acts of Congress relative to taxation or for a violation of any rules or regulations of the Kentucky Department of Revenue made in pursuance thereof.
- (e) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse racing; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine contrivance, lottery, gift enterprise, handbook or facility.

I. Proceedings for Revocation or Suspension of License

- (1) Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or of the City ABC Administrator, the City ABC Administrator may institute proceedings to revoke or suspend any license granted under this ordinance. A license may be revoked or suspended only after the licensee shall have been given written notice, by certified or registered mail, of the proposed revocation, including notice of the reasons for such proposed action. The licensee shall be given opportunity to be heard in opposition to the proposed revocation or suspension. The notice of the proposed action shall advise the licensee of the date, time, and place of the hearing. Notice shall be sufficient if mailed to the licensee at the address shown in the last application for a license or in the last statement supplemental to or in amendment of the application, whether or not the mailing is receipted for or claimed.
- (2) The specific procedures to be followed in hearings on actions for revocation or suspension shall be those set out in Kentucky Administrative Procedure Act (KAR Chapter 13B).
- (3) A decision of the City ABC Administrator revoking or suspending a license may be appealed as provided in KRS 243.550.
- (4) Within three (3) days after any order of revocation or suspension of a license becomes final, notice of revocation shall be given to the licensee and to the

owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient compliance with this section. The licensee shall at once surrender his or her license to the City ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the Chief of Police, at the request of the City ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the City ABC Administrator.

- (5) When a license has been revoked or suspended, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.
- (6) Appeal from the decision of the City ABC Administrator revoking or suspending a license shall be to the ABC Board. The timely filing of an appeal shall stay further proceedings for revocation.
- (7) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall at once suspend all operations authorized under his or her license. Upon the entry of a final order of the ABC Board sustaining or ordering revocation or suspensions of appeal, the licensee shall at once suspend all operations authorized under this license.

J. Transfer or Assignment

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

K. Refusal of License; Guidelines for Approval of Quota Licenses

- (1) The City ABC Administrator may refuse to issue a license for any of the following reasons:
 - (a) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales or the administration thereof.
 - (b) If the applicant has done any act for which a revocation of license would be authorized under local, state, or federal law; or
 - (c) If the applicant has made any false material statement in his or her application.
- (2) In the case of quota licenses, before approving an application, the City ABC Administrator is hereby directed to consider, in addition to the factors set out in KRS 243.450, 243.490, 243.500, and any other factors the administrator

determines in his or her discretion to be reasonable and pertinent to the license applicant, the following criteria:

- (a) **Ownership.** The City of Williamsburg places great value on business owners who are invested in the Williamsburg community.
 - (b) **Economic Impact.** The City of Williamsburg desires business which makes the most positive impact on the community, in number of jobs, payroll, property investment, and revenues to the city.
 - (c) **Site of business.** The City of Williamsburg is interested in serving all geographical areas of the city. Therefore, the city does not wish to cluster all ABC outlets in one area.
 - (d) **Aesthetics.** The City Williamsburg is committed to protecting the character and beauty of our community.
 - (e) **Revitalization of Downtown.** The City of Williamsburg wholeheartedly supports the revitalization of downtown and the revitalization and reuse of existing buildings.
 - (f) **Capital.** The City of Williamsburg values business that demonstrate their ability to financially support and sustain their viability.
 - (g) **Public support of licensed business in the area.** The City of Williamsburg intends that public sentiment and safety be considered in deciding upon the approval of the retail liquor sales licenses in any area of the city.
- (3) An applicant who has been refused a license by the City ABC Administrator may appeal the refusal to the ABC Board pursuant KRS 241.200

L. Review of License; Books, Records and Reports.

- (1) Applicants to whom a license is issued pursuant to this chapter shall provide periodic information demonstrating compliance with the conditions of any license, such as, but not limited to, the continuing requirement that a minimum percentage of the applicant's business income is earned from the sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. The city shall provide the form schedule to the licensee. The licensee's acceptance of a license to manufacture or traffic in alcoholic beverages shall constitute consent to the filing of the quarterly report. In the case of caterer filing, the quarterly report shall identify each catered event by type of event, date and address of the event, and shall provide a per event breakdown of sales and the ratio of food sales to alcohol sales during the reporting period. This requirement for filing of reports notwithstanding, the city may at any time come upon the premises of any license and examine the books and records to determine whether the licensee is in compliance with all parts of this chapter. In the event the conditions of any license requirements are not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is

appropriate or whether the license may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least one (1) year in determining whether or not the food sale percentage requirement has been met.

- (2) Every licensee under this ordinance shall keep and maintain, upon the licensed premises, adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and such city employees who may assist the City ABC Administrator in his or her review.
- (3) For the purpose of assisting the City ABC Administrator in enforcement of this Ordinance, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by statute shall be furnished to the City ABC Administrator.

M. Dormancy

- (1) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after ninety (90) days. Such is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.
- (2) Any license under which no business is transacted during a period of ninety (90) days shall be deemed inactive and, unless the conditions set forth in division (c) below are provided to the satisfaction of the City ABC Administrator, the license shall be surrendered to the City ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the City ABC Administrator.
- (3) The provisions of division (b) hereof shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, whether acquisition is voluntary or involuntary, or loss of lease through failure of landlord to renew existing lease. Prior to the expiration of ninety (90) days of inactivity, such licensee shall furnish to the City ABC Administrator a verified statement setting forth the fact that the license is unable to continue in business, for any of the specific reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted there under within twelve (12) months from the date of notice to the City ABC Administrator. Such extension may not extend beyond the renewal date but may be for such time as the City ABC Administrator deems appropriate in exercise of his or her sound discretion.

ARTICLE V. HOURS FOR SALE AND DELIVERY

A. Hours for Sale and Delivery

- (1) A licensee for distilled spirits, wine and/or malt beverages shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages between hours of 6:00 a.m. until 12:00 a.m. (midnight) Monday – Saturday. Said licensee shall not be permitted to sell or dispense distilled spirits, wine and/or malt beverages after the hours of 12:00 a.m. (midnight on Saturday) to 12:00 a.m. (midnight on Sunday) with the noted exceptions below:
 - (a) Upon approval for a Special Sunday Retail Drink License by the City ABC Administrator and the State Alcohol Beverage Control Board, alcohol beverages may be sold or dispensed on Sundays from 1:00 p.m. to 12:00 midnight pursuant to authority granted by KRS 243.032 and KRS 243.070, and a city special Sunday drink license, pursuant to authority granted by KRS 242.185 and KRS 243.070; the fee for the Special Sunday Retail Drink License shall be established by this Ordinance and become due and payable as established in Article II section 2 (Proration of Fees).
 - (b) A licensee may sell and dispense distilled spirits, wine, and/or malt beverages on New Year's Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Year's Eve occurs; provided that; the appropriate licenses have been obtained both the City and the State ABC Board.
 - (c) All delivery of alcoholic beverages in the city shall be made between the hours of 6:00 a.m. and 12:00 midnight, Monday through Saturday. No delivery shall occur on Sunday.
 - (d) Alcohol sales shall be permitted on Election Day; which shall include general, primary or special elections.

ARTICLE VI. CONDITIONS, PROHIBITIONS AND RESTRICTIONS

A. Gambling

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

B. Radio Receiving Apparatus

It shall be unlawful for any licensee licensed under this ordinance to have, or maintain, any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement

agency in Whitley County as it is now, or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

C. On Premise Activity

No person licensed to sell alcoholic beverages at retail shall cause, allow, or permit dancing, karaoke singing, or pool tables on the premises which holds a city license.

D. Security

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

E. Prizes Prohibited

It shall be unlawful for the licensee under this ordinance who sells alcoholic beverages of any kind to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages nor shall any licensee give away any alcoholic beverage in any quantity for less than a full monetary consideration.

F. Drunkenness

No licensee or agent or employee of the licensee of the license shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee sell alcoholic beverages to any person who is actually or apparently under the influence of alcoholic beverages, or known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period. No licensee shall permit any person who is actually or apparently under the influence of alcoholic beverages to remain on the licensed premises. As used herein, whether a person is actually or apparently under the influence of alcoholic beverages shall be determined by the licensee or server with specific reference to the principles and guidelines established in mandatory alcohol server training as to the signs of alcohol intoxication.

G. Underage Sales

The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age. The licensee shall check ALL photo ID's to ascertain that every person attempting to purchase or consume alcoholic beverages is at least 21 years of age.

H. Sign Requirements – Notice to Persons Under the Age of Twenty-one (21)

Per state law, the licensee shall display at all times in a prominent place a sign at least 8" x 11" in thirty (30) point or larger type font which states as follows:

Persons under the age of twenty-one (21) are subject to a fine of up to One Hundred Dollars (\$100.00) if they:

- (1) Enter licenses 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.

I. License to be Displayed

- (1) Pursuant to the requirements set forth in KRS 243.895, the Licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the license, or knowingly deface, destroy or alter the license in any respect.
- (2) The license shall post in a prominent place easily seen by patrons a printed sign at least 11" x 14" in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Kentucky Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this section shall be subject to a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00).

J. Legal Transactions for Wholesalers, Distributors and Retail

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

K. Employment Restrictions

No licensee shall knowingly employ in connection with his or her business any person who:

- (1) Has been convicted of any felony within the last two (2) years;
- (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years;
- (3) Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute, unless said person is exempt or permitted under certain circumstances as set forth in KRS and/or the state and local ABC Regulations; as in employed in a capacity that does not involve the sale of serving of alcoholic beverages;
- (4) Within two (2) years prior to the date of his or her employment, has had any city license under this chapter revoked for cause.

L. Happy Hour Restrictions

Licensees shall not offer reduced drink specials (e.g. two-for-one, happy hours) before 4:00 p.m. Monday through Saturday, nor after the hour of 8:00 p.m. Monday through Saturday.

M. Lavatory Facilities Required

All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises.

N. Nudity and Adult Entertainment Activities Prohibited

No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premise. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises. No licensee shall sponsor or permit wet t-shirt or wet clothing contests, lingerie fashion shows, mud wrestling, jello wrestling or similar activities, nor shall a licensee allow dancing with touching for compensation (including but not limited to wages, tips or gratuities), or any other service, display or contest requiring physical contact between patrons and/or patrons and employees on any licensed premises. No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premise in the city.

O. Cause for Revocation

Violation of this Article shall subject the licensee to penalties provided in this ordinance and shall be cause for revocation of license.

ARTICLE VII. MINORS

A. Possession by Minors Prohibited; No Person Shall Aid Possession by Minors

- (1) Except as specifically authorized under KRS Ch. 241 through 244, no person under the age of 21 may possess alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages.
- (2) As provided in KRS 244.085, no person under the age of 21, except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. For purposes of this prohibition, "premises" specifically encompasses the entire lot upon which a licensed establishment is situated, including any drive-up window. The prohibition contained in this division (b) shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, or similar establishment.
- (3) No person shall knowingly permit, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licenses, as set out in this ordinance, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.
- (4) No person being the owner or occupant or otherwise in possession or control of any property located within the city shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.
- (5) It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.

ARTICLE VIII. CONSUMPTION ON PREMISES PROHIBITED

A. Consumption on Licenses Package Premised Prohibited

No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises. The licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.

B. Exceptions

This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of KRS Ch. 243, or

where sampling is permitted for a retail distilled spirits and wine license under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:030.

C. Habitual Congregating

- (1) **Licensed Premises.** No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.
- (2) **Vacant Property. No person or entity being the owner or** otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.
- (3) **It shall be a defense to any prosecution under Article VIII,** if a licensed vendor or property owner shall permit the city of post and maintain a legible, painted or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.

D. Definitions

In addition to the definitions contained in KRS 241-244, as used in this Article, the term:

- (1) **Habitual** shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;
- (2) **Package Liquor Store** shall mean a retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes;
- (3) **Public Nuisance** shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by or the health, safety and welfare of the public; and
- (4) **Vacant Property** shall mean a vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

ARTICLE IX. MALT BEVERAGE KEG REGISTRATION

A. Definitions

As used in this section, "Keg" is defined as a container designed and capable of holding six (6) or more gallons of malt beverage.

B. Malt Beverage Keg Identification Tag

All retail licensees (herein after referred to as "licensee") operating within the City of Williamsburg who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the city to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:

- (1) The purchaser is of legal age to purchase, possess and use the malt beverage;
- (2) The purchaser is not purchasing the keg for resale and will not allow any person under the age of twenty-one (21) to consume the malt beverage;
- (3) The purchaser will not remove, obliterate or allow to be removed or obliterated the identification tag;
- (4) The purchaser will state the property address where the keg will be consumed and physically located; and
- (5) The purchaser is aware of his/her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

C. Keg Registration

- (1) The licensee shall obtain the name, address and telephone number of the purchaser and shall require the purchaser to produce a valid driver's license number and. If that is not available, to produce at least one other valid form of identification.
- (2) The licensee shall retain copies of the keg registration forms for a period of one (1) year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.
- (3) The keg registration form shall be forwarded to the city within five (5) working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.
- (4) The city is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.
- (5) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the city concerning the provisions of this section.

D. Unlawful Sales

It shall be unlawful for any licensee to sell or offer for sale kegs without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have the declaration form visible and readily accessible from the location of the keg. The penalties for violation of this section shall be the penalties as set out in this

ordinance. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

ARTICLE X. ENFORCEMENT

A. Enforcement

City police officers and the City ABC Administrator and his/her Investigator(s) are hereby authorized to enforce this Ordinance in full.

NOTICE: Under the authorization of KRS 241.090, City of Williamsburg Police Officers, the City ABC Administrator, and the assigned Investigator's for the City's ABC Administration, are not required to obtain search warrants for inspections upon the licensed facilities or any living quarters accessible by the licensed facility. This includes but is not limited to the review of any video or audio recordings of the licensed facility.

ARTICLE XI. PENALTIES

A. Penalties

- (1) In addition to any criminal prosecution instituted in Whitley County District Court against an alleged violator, the City ABC Administrator may assess the fines and penalties authorized in KRS 243.480, including the per diem assessments for ongoing violations. Should the fines or penalties assessed by the state change under KRS 243.480, then the fines or penalties under this article shall be adjusted accordingly to mirror the fines or penalties imposed by state law. Payment of all fines shall be remitted to the City ABC Administrator, who shall then transmit the fines to the City Clerk for deposit in the appropriate designated account.
- (2) Any person, firm or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall be guilty of a Misdemeanor, and subject to prosecution in the Whitley County Court System, as follows: for the first offense, be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or imprisoned for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, a joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

ARTICLE XII. MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

A. Mandatory Responsible Beverage Service Training

- (1) All persons employed in the selling and/or serving of alcoholic beverages shall participate in and complete the Kentucky S.T.A.R. program.
- (2) All persons required to complete training under division (a) above shall complete that training within thirty (30) days of the date on which the person first becomes subject to the training requirement. When a new business is licensed to serve alcoholic beverages all employees must be trained prior to the opening of the business.
- (3) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspections by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed hereunder must at all times when alcoholic beverages are being served hat at least one person currently certified in responsible beverage service training on duty as described herein.
- (4) All persons completing the training required by this section shall be re-certified not less than once every three (3) years thereafter.

ARTICLE XIII. SIGNS AND ADVERTISING

A. Signs and Advertising

- (1) All signage shall be in compliance with any and all other existing rules, regulations, and ordinances of the City of Williamsburg including but not limited to, the Planning and Zoning Ordinance as currently enacted, and/or as may be amended in the future.
- (2) No flashing lights shall be used to illuminate the exterior of any premises licensed under this ordinance.
- (3) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder.
- (4) No licensee shall publish or display advertising that is false or misleading, nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any know athlete is depicted or referred to, nor shall any licensee publish or display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or the use of terms such as "high test", "high proof" or "extra strong") or depicting activities that tend to encourage excessive consumption.

- (5) No licensee shall erect or allow to be erected any banner that displays any particular brand of alcoholic beverage on the outside of the building or on the property.
- (6) **Any off premises signage advertising the sale of alcoholic beverages is prohibited.** It shall be unlawful to attach signage advertising alcoholic beverages to the exterior of the building or the exterior premises of the business. This prohibition shall include the use of outdoor umbrellas or other outdoor or patio fixtures that feature the name or logo of an alcoholic beverage or manufacturer of alcoholic beverages.
- (7) Signage which refers directly or indirectly to alcoholic beverages will be limited to one (1) sign not over two (2) square feet, for each fifty (50) square feet of glass window, that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises 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 windows of the licensed premises business cards not larger than two and one-half inches (2 1/2") in size, setting forth the price at which the licensee offers alcoholic beverages for sale.
- (8) 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 of advertising alcoholic beverages.
- (9) No licensee shall advertise alcoholic beverages on any municipally owned property or at any municipally sponsored event.

ARTICLE XIV. PATIO AND OUTDOOR SALES

A. Patio and Outdoor Sales Regulations

- (1) Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.
- (2) No licensee shall offer alcoholic beverages for sale in a patio or outdoor area of the licensee's premises except in a clearly defined patio or outdoor area that is enclosed by a fence or other screening, not less than four (4) feet in height. All outdoor areas and screening shall be subject to the approval of the City ABC Administrator. An exception to this restriction may be granted for seasonal sidewalk cafes, upon application to and authorization from the ABC City Administrator. The permission to operate a sidewalk café shall be governed by the provisions of this article and shall be subject to the regulation of local zoning authorities as well as code enforcement and public safety officers.

- (3) No licensee shall offer patio or outdoor sales of alcoholic beverages unless the patio or outdoor area and fencing or screening area shall have been approved in advance by the ABC Administrator.
- (4) Unless exempted by the following provisions of this ordinance, and by permission of the City ABC Administrator, patio area must comply with the screening requirements of this ordinance. Sidewalk café seating areas must comply with this ordinance and with local zoning laws and other public safety requirements noted in this ordinance, or in other local ordinances, statutes or regulations.

B. Exception(s) to Screening Requirements for Outdoor Sales and Service of Alcoholic Beverages, Specifically, Permitted Sidewalk Cafes in the City's Downtown Business Area.

- (1) Licensees in the downtown business district/area may request an exception from the outdoor screening of patio provision in order to permit seasonal sidewalk cafes that serve food and alcoholic beverages as an adjunct to the primary and adjacent licensed premises. In the case of permitted sidewalk cafes, they shall be deemed part of the licensed premises.
- (2) Any food establishment which operates a restaurant and is licensed under this Ordinance and the provisions of the State ABC code, may, upon application to the local ABC Administrator, ask permission to expand the operation of that restaurant onto a part, and that part, of the public sidewalk which immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit.

C. Conditions for Sidewalk Café Permit

The issuance of a permit shall be subject to the following conditions and restrictions; provided, however, that the ABC Administrator may without adverse hearing procedures impose additional reasonable restrictions or withdraw approval upon the operation of any sidewalk café where necessary in the judgment of the said Administrator to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing:

- (1) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.
- (2) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. They shall be removed at the end of each business day at the hour specified in the permit. Umbrellas, tables, chairs, and other portable appurtenances shall be confined to the area shown on the approved Permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

- (3) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.
- (4) The licensee shall, in addition to all other requirements of law, take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passersby or persons who are not of age or who are obviously or apparently intoxicated.
- (5) No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.
- (6) No amplified sound shall be used within a sidewalk café. At no time shall any music originating from any part of the premises create a nuisance.
- (7) Dancing shall not be permitted or allowed in the sidewalk café.
- (8) The licensee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol and the operation of the premises.
- (9) The permit for sidewalk café may not be assigned or transferred.

D. Other Requirements Applicable to Sidewalk Cafes

No sidewalk café permit shall be effective unless the licensee has filed with the ABC Administrator evidence of insurance, insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of such sidewalk café, in an amount to be established by the City Attorney and the City's Safety Coordinator. The city shall be names an additional insured in the policy required. Such insurance policy shall further provide expressly that it may not be canceled except upon ten (10) day's written notice (or more) filed with the ABC Administrator and the City Attorney.

ARTICLE XV. IMPLEMENTATION OF ORDINANCE PROVISIONS; SEVERABILITY

A. Implementation of Changes in Ordinance Provisions

The City of Williamsburg City Council may promulgate rules and regulations, and/or amendments thereto, as is in its discretion in order to ensure the proper implementation of this ordinance. Such will be done as according to local, state and federal law.

B. Severability

If any section of this ordinance, including not limited to, any section, subsection, paragraph, sentence, clause, phrase, or any other portion of this ordinance, is declared illegal or unconstitutional, or otherwise invalid by a court of competent jurisdiction, such declaration shall not affect the remaining portions hereof.

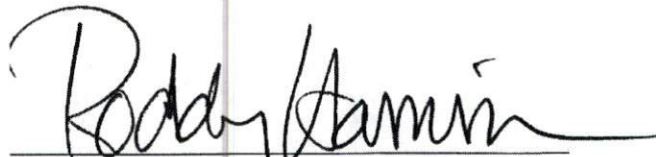
C. EFFECTIVE DATE OF ORDINANCE PROVISIONS

This Ordinance shall take effect immediately after its Passage and Publication, as required by law.

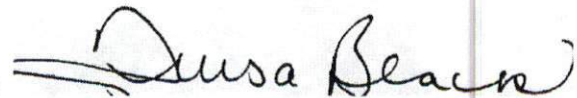
First Reading: August 8, 2016

Second Reading: August 10, 2016

Enacted this 10th day of August, 2016.



Roddy Harrison, Mayor

ATTEST: 

Teresa Black, City Clerk

CITY OF WILLIAMSBURG, KENTUCKY
ORDINANCE NO. 12-005

**Amending Ordinance (Due to Senate Bill 13) Regulating the
Sale of Alcoholic Beverages Within the City Limits of
Williamsburg, Kentucky.**

WHEREAS, an election was held on March 20, 2012 pursuant to KRS 242.185(6) as to whether the City of Williamsburg would permit the limited sale of alcoholic beverages within the city limits of Williamsburg and

WHEREAS, a majority of the citizens of the City of Williamsburg have voted in favor of the limited sale of alcoholic beverages, and

WHEREAS, the City may impose certain restrictions, regulations, and license fees upon such retail establishments that wish to sell alcoholic beverages, and

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

Chapter 1.00 ALCOHOLIC BEVERAGE CONTROL

Sec. 1.01 SHORT TITLE

This Ordinance shall be known and may be cited as the Alcoholic Beverage Ordinance of the City of Williamsburg.

Sec. 1.02 DEFINITIONS

As used in this chapter, unless the context clearly indicates or requires a different meaning, the words and terms defined in Kentucky Revised Statute 241.010 shall apply.

Sec. 1.03 INCORPORATION OF STATE LAW

(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 5.00.

Sec 1.04 SCOPE OF COVERAGE

(A) This chapter shall be construed to apply to the traffic in both malt

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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 of the city or of any other statutes of the state relating to violations to alcoholic beverages.

Chapter 2.00 ADMINISTRATION AND CONTROL

Sec. 2.01 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

As provided by KRS 241.160, cities of first, second, third, and fourth class in which alcoholic beverages are permitted shall have City Alcoholic Beverage Control (ABC) Administrators. The duties of the ABC administrator shall be assigned to the office of the Mayor. The local ABC administrator may recommend regulations as may be necessary to implement this chapter; any such regulations presented to the City Council for approval. The Mayor can initially assume the responsibility of the ABC administrator however he/she may designate a person to the position. The Mayor will also determine the salary of the ABC administrator, as with other City held positions.

Sec. 2.02 OATH AND BOND OF LOCAL ABC ADMINISTRATOR AND EMPLOYEES

(A) The ABC administrator before entering upon his duties as such, shall take the oath prescribed in KRS 241.180, and shall execute a bond with a good standing corporate surety in the amount of not less than one thousand dollars. (\$1,000.00).

(B) The ABC administrator may require any city employee under his supervision to execute a similar bond in such amount, as he deems necessary.

Sec. 2.03 FUNCTIONS, DUTIES AND POWERS

(A) The functions of the City ABC Administrator shall be the same with respect to the city license and regulations, as the functions of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations of the ABC Administrator, described in KRS 241.190, shall become effective until 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.

Sec. 2.04 POLICE POWER

The City ABC Administrator and his designee shall have the full police powers of law enforcement officers, and their jurisdiction shall be co-extensive with the boundaries of the City. They, along with the City of Williamsburg law enforcement officer, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked, without first obtaining a search warrant. City law enforcement officers shall have full police powers while performing any such inspections.

Sec. 2.05 RIGHT OF INSPECTION

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

Sec. 2.06 APPEALS FROM CITY ABC ADMINISTRATOR

Appeals from the 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 orders of the City ABC Administrator. The board shall hear matters at issue as original proceeding.

Chapter 3.00 LICENSE AND TAXES

Sec. 3.01 LICENSE REQUIRED FOR SALE

No person shall see or dispense at retail, or have in his possession for sale, any alcoholic or malt beverage, nor manufacture or transport any alcoholic or malt beverage in the City unless he shall first procure and have issued to him a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter.

Sec. 3.02 LIMITED RESTAURANT ALCOHOL BEVERAGE BY THE DRINK LICENSE; FEES

(A) The City shall have the power and authority to issue licenses for the sale Of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons inside the building and derive a minimum of seventy percent (70%) of their annual gross receipts from the sale of food. The fee of this city license will be \$800.00 per year.

(B) The City License fee for the sale of alcoholic beverages during extended hours will be \$0.00 per year.

(C) The City license fee for the sale of alcoholic beverages on Sunday will be \$0.00 per year.

Sec 3.03 DATE LICENSES EXPIRE; PRORATION

All licenses issued by the City shall be valid for a period of no more than one year. All licenses shall expire on ~~June 30~~ April 30 of each year. Applications for renewal are to be filed with the City at least fifteen (15) days prior to expiration. When any person applies for a new license 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 (6) months remain before the license is due to be renewed. In the event any licensee shall cease doing business for any reason, no refund of the City license fee shall be granted.

Sec 3.04 PERSONS WHO MAY NOT BE LICENSED

A person shall not become a licensee under this chapter for any of the reasons stated in the KRS 243.100.

Sec 3.05 PREMISES THAT MAY NOT BE LICENSED FOR SALES AT RETAIL

No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in the possession of the premises under a written lease or a permit for no less than the license period.

Sec 3.06 BUSINESSES AUTHORIZED BY RETAIL DRINK LICENSE

A limited restaurant alcoholic beverage by the drink licenses shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers.

Sec 3.07 PUBLIC NOTICE OF INTENT TO APPLY FOR LICENSE

Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for a supplemental bar license shall before applying for a license advertise, by publication in the Whitley News Journal, his or her intention to apply for a license as stipulated in KRS 243.360. The advertisement shall meet the following requirements:

- (1) The advertisement shall state the name and addresses of the members of the partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.
- (2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170 424.130.

Sec 3.08 LOCAL ADMINISTRATOR TO FIRST APPROVE APPLICATION

An applicant for an alcoholic beverage license must have his city license approved by the City Alcoholic Beverage Control Administrator before they are eligible to apply for a state license.

Sec 3.09 APPLICATION FOR STATE LICENSE

All applications for alcoholic beverage licenses must submit an application to the state as stipulated in KRS 243.380.

Sec 3.10 SUBMITTAL OF APPLICATION

(A) An applicant for a license under this chapter shall file with the City Alcoholic Beverage Control 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 City 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 City ABC Administrator within thirty-six (36) hours.

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

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

- (1) Name and address;
- (2) Nature of interest;
- (3) Whether or not a citizen of the United States;
- (4) Date of birth;
- (5) Date residence was established in Kentucky, if a resident of Kentucky. If a Williamsburg resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this ordinance;
- (7) Extent of stock ownership;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee.

(D) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

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

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, of the licensed premises;
- (5) The name and address of the owner of the building in which the licensed premises are located.
- (6) The expiration date of the license;
- (7) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

(F) All licenses approved by the City ABC Administrator and issued by the City of Williamsburg shall begin on ~~July 1~~ May 1 of any year and shall expire on ~~June 30~~ April 30 of the following year.

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

**Sec 3.11 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, 243.500, as well as violation of any city ordinance regarding 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 to 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 City ABC Administrator may, in his discretion, approve a license to sell after receiving from the City Clerk, a written statement to the effect that the applicant

for the license has paid or has made satisfactory arrangements with the City Clerk 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. Appeals may be taken from decisions of the City ABC Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

(D) Failure to Meet Seating Standards. A cause for refusal to issue or renew a license and for suspension or revocation of a city license shall occur if the licensee ceases either to provide a minimum of one hundred (100) seats or derive a minimum of seventy percent (70%) of their annual gross receipts from the sale of food.

Sec 3.12 APPROVAL OR DENIAL OF APPLICATION

(A) If upon review of the application, the City 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 and 242.185(6), that a license may be issued within the rules fixed by the State Alcoholic Beverage Control Board, and that there are no causes for denial of the 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 violation 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, and evidentiary hearing to examine the violation set forth in the show cause order issued by the City ABC Administrator. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided by law.

Sec. 3.13 PAYMENT OF FEES, REFUND OF FEES

Upon approval of the application by the City 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. Payment shall be held in deposit by the City pending state license approval and issuance of the City license by the City ABC Administrator

If payment of a license fee was erroneously made or the licenses are not issued, the City shall authorize the payment of the refundable amount.

Sec. 3.14 ISSUANCE OF CITY LICENSES

The City Licenses shall be issued and the fees collected by the City Clerk. No license shall be issued by the clerk without the approval of the City ABC Administrator. The license shall be in the form of a standard City Business

License and a business license category shall hereby be established as a Limited Restaurant Alcoholic Beverage by the Drink License. The fees shall be those established in Section 3.02 of this chapter and shall not replace the standard business license fees required.

Sec. 3.15 POSTING OF LICENSES

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

The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where the traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

Each 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 or facsimile of each city license shall remain in the City Clerk's office as part of the public record.

Sec. 3.16 TRANSFER, ASSIGN, OR ACQUIRE EXISTING LICENSE

The transfer, assigning or acquisition of city license shall be the same as provided for in state licenses in KRS 243.630, 243.650, and 243.660.

Sec. 3.17 APPLICANT TO PAY FOR OWN LICENSE

The license fee for a city license shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued under these sections.

Sec. 3.18 DEPOSIT OF FEES

All moneys 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.

**Sec. 3.19 LICENSE TO BECOME VOID IF BUSINESS DORMANT;
LICENSE RENEWAL**

(A) 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 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 4:1110, as amended, from time to time to control such license in dormancy. In the event a period of dormancy is applied for or granted by the ABC

Administrator to the licensee, 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 to the City for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(B) Applications approved by the City 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 premise involved. The City ABC Administrator may grant extensions, as he deems appropriate in exercise of his sound discretion based on facts and circumstances surrounding each request.

(C) Renewals: Time for filing. All renewal of licenses and payment of license fees must be on file with the City ABC Administrator fifteen (15) days before the expiration of the license for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement fifteen (15) days prior to the expiration date of the license, setting forth the facts justifying an extension. The City ABC Administrator may then extend the time for filing of a renewal of license for a reasonable length of time within the exercise of his sound discretion. The licensee shall pay the licensee 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.

Sec. 3.20 APPROVAL OF PREMISES

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

Chapter 4.00 PROHIBITIONS, RESTRICTIONS, AND REGULATIONS

Sec. 4.01 HOURS OF SALE

(A) Retail sale for Consumption on Licensed Premises. Premises for 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 12:00 midnight each day of the week. ~~except as stated below. However, sales may not be conducted 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 area within his licensed premises capable of being locked and closed off within which is kept all stocks of alcoholic beverages and if the department is kept locked during the foregoing time his is not permitted to remain open to see alcoholic beverages, he shall be deemed to have complied with this subsection.~~

(B) Alcoholic beverages may be sold or dispensed on Sundays, from

2:00 p.m. to 12:00 midnight.

(C) The licensee may sell and dispense alcoholic beverages on New Years Eve until 2:00 a.m. on January 1, regardless of the day of the week on which New Years Eve occurs, provided that the appropriate licenses have been obtained from both the City and State ABC Commission.

(D) Control of Premises During Closing Hours. During the closing hours, the premises of any license 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 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.

Sec. 4.02 HOURS OF SALE; EXCEPTIONS; REQUIREMENTS

The licensee 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.

Sec. 4.03 FOOD SERVICE REQUIREMENTS

All license holders of a Limited Restaurant Alcoholic Beverage By The Drink License shall be required to maintain food service during all hours that alcohol is served.

Sec. 4.04 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR

If any alcoholic or malt beverages are found on the outside of the locked or closed off area 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 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 grounds for revocation or suspension of the license. In addition to other penalties provided for violation of this chapter, the City Alcoholic Beverage Control Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

Sec. 4.05 ADVERTISING RESTRICTIONS

(A) Signage which refers directly, or indirectly, to alcoholic beverages shall be limited to one (1) two (2) square foot sign, for each fifty (50) square feet of glass window, 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, nor shall it 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. The restriction shall not prevent any licensee from placing in the windows of the licensed premises business price cards not larger than two and one-half (2 ½) inches in size, setting forth the price at which he offers alcoholic beverages for sale.

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

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

(D) 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.

Sec. 4.06 TREATING PROHIBITED

No license holder shall give away any alcoholic beverage in any quantity for less than a full monetary consideration.

Sec. 4.07 LICENSEE TO PURCHASE FROM AND SELL ONLY TO PERSONS AUTHORIZED TO SELL OR PURCHASE

(A) No licensee shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder or a special agents or solicitors license if such a license is required.

(B) No licensee shall sell, or agree to sell, any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agents or solicitors license.

Sec. 4.08 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 purchasers 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.

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

(B) Except as provided in Section C above, 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 for a felony within the preceding twelve (12) months.

Sec. 4.09 SALE TO PERSON NOT PROVIDING FOR HIS FAMILY PROHIBITED

~~No licensee shall or agree to sell any alcoholic beverages or case or permit any alcoholic beverage to be sold to any person who has been reported to the licensee by any court or by any officer acting at the direction of the court as having failed to make proper provisions for his family.~~

Sec. 4.10 LICENSEE TO DISPLAY NOTICE AS TO THE SALE TO MINORS: WARNING OF DANGERS OF DRINKING DURING PREGNANCY TO BE POSTED

(A) Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows:

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100) 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 purpose of purchasing or obtaining alcoholic beverages.

(B) All licensed retail vendors of alcoholic beverages shall post in prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

Sec. 4.11 MINORS NOT TO POSSESS OR PURCHASE LIQUOR TO MISREPRESENT AGE-USE OF FRAUDULENT IDENTIFICATION

(A) As used in KRS 244.083 and this section; Premises has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages.

(B) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing any alcoholic beverages.

(C) A person under 21 years of age shall not 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 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(D) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensed agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(E) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

Sec. 4.12 PERSONS WHO LICENSEES MAY NOT EMPLOY

(A) A person holding any city license shall not knowingly employ in connection with his or her business any person who:

- (1) Has been convicted of any felony within the last two (2) years.
- (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years.
- (3) Is under the age of twenty (20) years, unless the person is employed in a capacity that does not involve the sale or serving of alcoholic beverages.
- (4) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(B) The provisions of paragraph (1) and (2) or subsection (A) of this section shall not apply if the employees duties do not involve the sale, delivery, or traffic in alcoholic beverages at the licensed premises.

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

Sec. 4.13 RETAIL PREMISES NOT TO BE DISORDERLY

(A) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.

(B) Acts which constitute disorderly premises, consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:

- (1) Engaging in fighting or in violent, tumultuous or threatening behavior, or
- (2) Making unreasonable noise, or
- (3) Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to fire, hazard, or other emergency; or
- (4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or
- (5) Conducting promotional efforts that are not customary or usual for a restaurant operation (e. g. wet t-shirt contest).

(C) No person licensed to sell alcoholic beverages at retail shall cause, allow or permit dancing or karaoke singing or pool tables on the premises which holds a city license.

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

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

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

Sec. 4.14 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. For a responsible beverage service program to be approved by the City, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxication. The City will require enrollment in the Server Training in Alcohol Regulations (STAR) program offered by the Education Branch of the State ABC to provide consistency in the training under specific Kentucky law.

(B) All persons required to complete training under paragraph (a) above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement or in the first available approved program following employment if no program is available within sixty (60) days.

All persons completing the training required by this section shall be re-certified in responsible alcoholic beverage service training from a program approved by the City not less than once every three (3) years thereafter.

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

Chapter 5.00 ENFORCEMENT

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

Sec. 5.01 INVESTIGATION AND INSPECTION OF PREMISES

The City ABC Administrator and any investigator acting under the authority of the City ABC Administrator shall have the full police powers of peace officers within boundaries of the City of Williamsburg. They, along with any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked, without first obtaining a search warrant.

Sec. 5.02 PENALTIES FOR VIOLATIONS OF CHAPTER 5

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

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

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

Chapter 6.00 REGULATORY LICENSE FEE

Sec. 6.01 REGULATORY LICENSE FEE IMPOSED

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

(B) The regulatory license fee shall be seven percent (7%) for the fiscal year beginning July 1, 2012 and continuing thereafter until amended or appealed.

Sec. 6.02 PAYMENT

Payment of such fee shall accompany forms approved for use by the City ABC Administrator and shall include a tabulation of both gross food sales and alcohol sales for the preceding month. Sales and use tax return for the reporting period shall accompany said forms. The forms and payment shall be submitted to the City Clerk by the twentieth (20th) 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 any fees required under the provisions of this chapter shall be deducted each month as a credit.

Sec 6.03 FAILURE TO PAY; INTEREST ON LATE PAYMENT

Failure to pay the monthly remittance within ten (10) days after the due date shall constitute a violation of this chapter. Interest shall be assessed upon any past due payments at the rate of twelve (12) percent per month.

Sec 6.04 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 (50) dollars shall be assessed for the first offense. An automatic penalty of one hundred dollars (\$100) shall be assessed on the second offense, and an automatic penalty of two hundred dollars (\$200) shall be assessed on the third offense. In addition to the monetary penalty, the City 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.

Sec 6.05 ADEQUATE RECORDKEEPING

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

Sec 6.06 AUDIT REQUIREMENTS

The City ABC Administrator may at his discretion require that a licensee make his records available to the City for the purpose of conducting an audit to verify compliance with the seventy percent (70%) food sales requirements.

Sec 6.07 PENALTIES

(A) Any person who violates any provision of this chapter for which no specific penalty is 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).
- (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) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

Chapter 7.00 IMPLEMENTATION OF ORDINANCE PROVISIONS

From time to time, the Williamsburg City Council may by resolution or order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this ordinance

Sec 7.01 SEVERABILITY

If any section, sentence, clause, or portion of this Ordinance is for any reason declared illegal, unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

This ordinance shall be effective immediately upon publication. Any ordinances or parts of ordinances in conflict herein are hereby repealed.

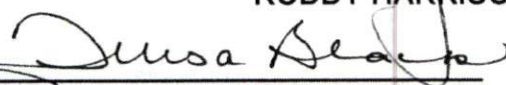
First Reading: May 14, 2012

Enacted upon Second Reading this 16th day of May, 2012.



RODDY HARRISON, MAYOR

ATTEST:



TERESA H. BLACK, CITY CLERK

Amendment Date (First Reading): October 14, 2013.

Amendment Date (Second Reading): November 13, 2013.