

ORDINANCE NO. 1896

AN ORDINANCE AMENDING THE EXISTING ORDINANCE PERTAINING TO ALCOHOLIC BEVERAGES.

WHEREAS, the Board of Commissioners deems it necessary and appropriate to amend its existing ordinance pertaining to alcoholic beverages so as to incorporate the changes passed in House Bill 183 by the Kentucky General Assembly;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF DANVILLE, KENTUCKY, as follows:

SECTION ONE:

Sections 2.5-12 title "City Licenses" is hereby amended to read as follows:

- (1) Only those licenses set out in this section shall be issued. The license fees are subject to the provisions of subsections (16), (17), and (18) of this section and shall not exceed the amounts specified in subsections (2) to (15) of this section.
- (2) Distilled spirit licenses ~~as set forth in KRS 243.030:~~
 - a. Distiller's license, per annum\$ 500.00
 - b. Rectifier's license, ~~per annum \$3,000.00 ;~~
 - i. Class A, per annum \$3,000.00
 - ii. Class B (craft rectifier), per annum\$960.00
 - c. Wholesaler's distilled spirits and wine license, per annum.....\$3,000.00
 - d. Quota retail package license, per annum.....\$1,000.00
- (3) Quota retail drink license per annum.....\$1,000.00
- (4) Special temporary license, per event.....\$166.66
- (5) Nonquota type 1 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$2,000.00
- (6) Nonquota type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$1,000.00
- (7) Nonquota type 3 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$300.00
- (8) Distilled spirits and wine special temporary auction license, per event...~~\$200.00~~
\$100.00
- (9) Special Sunday retail drink license, per annum.....\$300.00
- (10) Extended hours supplemental license, per annum.....\$2,000.00
- (11) Caterer's license, per annum.....\$800.00
- (12) Bottling house or bottling house storage license, per annum.....\$1,000.00

- (13) Malt beverage licenses as follows:
 - a. Brewer's license, per annum.....\$500.00
 - b. Microbrewery license, per annum...\$500.00
 - c. Malt beverage distributor's license, per annum....\$400.00
 - d. Nonquota retail malt beverage package license, per annum.....\$200.00
 - e. Nonquota type 4 retail malt beverage drink license, per annum... \$200.00
 - ~~f. Malt beverage brew on premises license, per annum.....\$100.00~~
- (14) Limited restaurant license (includes distilled spirits, wine, and malt beverages, per annum.....\$1,200.00
- (15) Limited golf course license (includes distilled spirits, wine, and malt beverages), per annum...\$1,200.00
- (16) Authorized public consumption license, per annum\$250.00
- (17) Qualified historic site license, per annum\$1,030.00
- ~~(16 18)~~ The fee for the following license types may not be increased by more than five percent (5%) above the January 1, 2013, fee for the current license or the former license type listed beside it during any five (5) year period. The fees for the licenses described in this subsection are still subject to the maximum amounts listed for those licenses in subsections (2) to (15) of this section:
 - a. Quota retail package license: retail package liquor licenses;
 - b. Quota retail drink license: retail drink License;
 - c. Nonquota type 1 retail drink license: convention center or convention hotel complex license;
 - d. Nonquota type 2 retail drink license: restaurant drink licenses;
 - e. Nonquota retail malt beverage package license: retail malt beverage license;
 - f. Nonquota type 4 retail malt beverage drink license: retail malt beverage license;
 - g. Limited restaurant; and
 - h. Limited golf course license.
- ~~(17 19)~~ The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.
- ~~(18 20)~~ The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).

SECTION TWO:

Section 2.5-15 of the City of Danville Code of Ordinances is hereby amended to read as follows:

- (a) Special Temporary licenses. A special temporary license may be issued only as set out in KRS. 243.260. ~~This license shall authorize the licensee to exercise the~~ Unless inconsistent with KRS 243.260, a special temporary license shall have

~~the same privileges and restrictions of a quota retail drink licensee and an NQ4 retail malt beverage licensee at the designated premises for a specified and limited time, not to exceed thirty (30) days, and shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink licensee or an NQ4 retail malt beverage drink license shall apply also to a special temporary licensee.~~

(b) A nonprofit organization holding an NQ4 retail malt beverage drink license may be issued a special temporary license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days. The temporary license may be issued in conjunction with any public or private event, including but not limited to weddings, receptions, reunions, or similar occasions.

(c) Sunday Sales. Special license required for Sunday sales. No licensee shall offer alcoholic beverages for sale at any time between 12:00 midnight on Sunday and 6:00 a.m on Monday unless the licensee shall have obtained a special license for Sunday sales.

SECTION THREE:

Section 2.5-19(a) titled "Regulatory license fee" of the City of Danville Code of Ordinances is hereby amended to read as follows with all other subsections therein remaining unchanged:

(a) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee ~~on~~ upon the gross receipts of the sale of alcoholic beverages of each license issued by the City ABC Administrator. Establishment located in the city licensed to sell alcoholic beverages. As of the time of adoption of this chapter, the regulatory license fee shall be five percent (5%) 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 four percent (4%) of gross sales. The regulatory license fee shall be three percent (3%) on gross retail sales of package malt beverages. Thereafter, pursuant to KRS 243.075 the City Commission shall adopt at the budget adoption 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 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 fixed until such time as the City Commission shall adjust the fee.

SECTION FOUR:

Section 2.5-31(i) of the City of Danville Code of Ordinances is hereby amended to read as follows, with all other subsections therein remaining unchanged:

(i) The City ABC Administrator before entering upon his or her duties as such, shall take the oath as prescribed in Section 228 of the Constitution, ~~and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000.00). The ABC Administrator may require any employee under the ABC Administrator's supervision to execute a similar bond in such penal sum as the Administrator deems necessary.~~

SECTION FIVE:

Section 2.5-44(a) of the City of Danville Code of Ordinances is hereby amended to read as follows, with all other subsections therein remaining unchanged:

(a) 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 be been approved by the City County Building Inspector, and any and all other inspections required by the Kentucky Building Code; Danville/Boyle County Planning and Zoning, Boyle County Health Department, and City Fire Marshal.

SECTION SIX:

Section 2.5-49 titled "Revocation or suspension" of the City of Danville Code of Ordinances are hereby amended to read as follows:

(a) Any license may be revoked or suspend by the City ABC Administrator per KRS 243.490 if the licensee shall have violated any of the provisions of KRS Ch. 241 through 244, or any rule or administrative regulation of the ABC Board relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages or of the Department of Revenue relating to the ~~regulation of the manufacture, sale and transportation or~~ taxation of alcoholic beverages or is 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 chapter 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, when an agent, servant, or employee of the licensee committed

the violation, 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.

(b) A license 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.

(c) In addition to the foregoing stated causes, any license may be revoked or suspended for the following causes: the reasons described in KRS 243.500.

~~—— (1) Conviction of the licensee his or her agent, or employee for selling any illegal beverages on the premises licensed.~~

~~—— (2) Making any false, material statements in an application for a license.~~

~~—— (3) If within a period of 2 consecutive years, any licensee or any clerk, servant, agent or employee of the licensee shall have been convicted of 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 transportation 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 any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one such felony and one such misdemeanor.~~

~~—— (4) Willful and deliberate failure or default of a licensee to pay any excise tax or any part thereof, or any penalties imposed by or under the revisions of any statutes, this chapter, acts of Congress relative to taxation, or for a violation of any related rules or regulations of the Department of Revenue made in pursuance thereof.~~

~~—— (5) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, devise, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises any such game, devise, machine, contrivance, lottery, gift enterprise, handbook or facility.~~

SECTION SEVEN:

Section 2.5-75 titled “Drunkenness” of the City of Danville Code of Ordinances are hereby amended to read as follows:

No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee sell alcoholic beverages to any person who appears to be a reasonable person to be 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 appears to a reasonable person to be apparently under the influence of alcoholic beverages, controlled substances, other intoxicating substances, or any of these substances in combination, to the degree that the person may endanger any person or property, or unreasonably annoy persons in the vicinity 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 within the specific reference to the principles and guidelines established in mandatory alcohol server training as to the signs of alcohol intoxication.

SECTION EIGHT:

Section 2.5-78 titled "License to be displayed" of the City of Danville Code of Ordinances are hereby amended to read as follows:

(a) The licensee, except holders of special temporary licenses, 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 the premise other than the licensed premises or upon the premises where 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.

(b) The licensee shall post in a prominent place easily to be seen by patrons a printed sign at least eight and one-half (8-1/2) inches by 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. ~~A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).~~

SECTION NINE:

Section 2.5-80 titled "Employment restrictions" of the City of Danville Code of Ordinances are hereby amended to read as follows:

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

(a) Has been convicted of any felony within the last two (2) years;

(b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of alcoholic beverages ~~intoxicating liquors~~ within the last two (2) years;

(c) 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. However, at a premise licensed solely with a non-quota retail malt beverage package license, a person that is at least eighteen (18) years of age may be employed to sell packaged malt beverages so long as said person is under the supervision of a person twenty (20) years of age or older.

(d) Within two (2) years prior to the date of his or her employment, has had any city license under this chapter revoked for any cause.

SECTION TEN:

Section 2.5-101 titled "Consumption on licensed package premises prohibited" of the City of Danville Code of Ordinances are hereby amended to read as follows:

No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises unless said person or entity shall also have a drink license conferring the privilege of consumption on the premises, ~~or shall have a retail malt beverage license, which permits on premises consumption. Any licensee who intends to permit on premises consumption shall, prior to permitting on premises consumption, notify the City ABC Administrator in writing of this decision. A licensee who does not permit on premises consumption shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.~~

SECTION ELEVEN: This ordinance is effective upon its publication.

SECTION TWELVE: If any section, subsection, paragraph, sentence, clause, phrase, or portion of this Ordinance is declared illegal or unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions hereof.

GIVEN FIRST READING AND PASSED June 12th, 2017.

GIVEN SECOND READING AND PASSED _____.

PUBLISHED IN THE *ADVOCATE-MESSENGER* _____.

APPROVED:

G. MICHAEL PERROS, MAYOR

ATTEST:

DONNA PEEK, CITY CLERK

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