

ORDINANCE NO. 5-2012

**AN ORDINANCE OF THE CITY OF CORBIN, KENTUCKY, ESTABLISHING REGULATIONS AND REQUIREMENTS FOR THE LICENSING AND OPERATION OF ESTABLISHMENTS FOR THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF CORBIN, KENTUCKY, AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE.**

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**WHEREAS**, the City of Corbin, Kentucky, has in place certain ordinances pertaining to the manufacture and traffic in alcoholic beverages pursuant to authority of KRS 242.185(6) ("Limited Restaurant"); and

**WHEREAS**, on Feb 14, 2012, a local option election was held, as a result of which election, effective April 14, 2012, expanded activities in the manufacture and traffic in alcoholic beverages will be permitted; and

**WHEREAS**, expanded sale and activities as approved in the recent local option election can create increased risks to the health, safety and welfare of the general public and to children and minors, in particular, unless appropriate regulation is adopted and enforced; and

**WHEREAS**, the Board of Commissioners deems it prudent and appropriate to provide by ordinance for the licensing and regulation of all manufacturing and trafficking in alcoholic beverages, including the expanded activities authorized by the Feb 14, 2012 local option election, to provide additional protections by regulation for the benefit of the health, safety and welfare of the general public and of children and minors, in particular, and to provide for enforcement of the ordinance as hereinafter set out; and

**WHEREAS**, the Board of Commissioners, in the enactment of this ordinance, intends that the enacted ordinance allowing expanded sales protect and benefit the community by:

Promoting economic health within the community;

Causing the revenue stream created by expanded sales and activities to have the maximum impact on the economic health of the City of Corbin, Kentucky, and its business owners and citizens;

Providing expanded entertainment and cultural venues for local citizens and creating increased tourism traffic and activities;

Protecting our citizens and the character of our neighborhoods, as well as the entire community, from the extremes that may be associated with alcoholic beverage enterprises;

Recognizing that dollars spent with local businesses have an expanded multiplying effect on the revenue stream of the community and;

Realizing that any and all types of alcohol sales venues may not, without proper regulation, be in the best interests of our citizens, their homes, or businesses, and that alcoholic sales venues must be regulated.

**NOW, THEREFORE**, be it ordained by the Board of Commissioners of the City of Corbin, Kentucky, as follows:

**SECTION 1. PURPOSE.**

The purpose of this Ordinance is:

(A) To set forth uniform regulations and requirements for the licensing and operations of establishments for the sale of alcoholic beverages within the City;

(B) To establish the authority and duties of the City's alcoholic beverage control;

(C) To codify herein that the Board of Commissioners of the City of Corbin, Kentucky, hereby determines and acknowledges that an economic hardship exists within the City of Corbin, Kentucky, and that the sale of alcoholic beverages by the drink could aid economic growth.

**SECTION 2. TITLE; DEFINITIONS.**

(A) *Short title.* This Ordinance shall be known and may be cited as the "Alcoholic Beverage Control Ordinance" of the City.

(B) *Definitions.* Words used throughout this Ordinance, unless the context requires otherwise, shall have the same definitions as set out in the state's Alcoholic Beverage Control Law (KRS Chapters 241, 242, 243 and 244) of the Commonwealth, and all amendments and supplements thereto.

**SECTION 3. SCOPE.**

(A) Irrespective of title or headings, the sections of this Ordinance shall be construed to apply to the traffic in both malt beverages and distilled spirits and wines where the context permits the application.

(B) Nothing in this Ordinance shall excuse or relieve a licensee or the agent or employee of any licensee in the City, from the restrictions, requirements and penalties of any other ordinance or ordinances of the City or of any statutes or administrative regulations of the Commonwealth relating to violations pertaining to alcoholic beverages.

**SECTION 4. ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW.**

The provisions of the Alcoholic Beverage Control Law of the Commonwealth (KRS Chapters 241, 242, 243 and 244), and all amendments and supplements and administrative

regulations thereto, are adopted so far as applicable to this Ordinance, except as otherwise lawfully provided herein.

#### **SECTION 5. DEFINITIONS.**

For the purpose of this Ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ALCOHOLIC BEVERAGES.** Every liquid or solid, whether patented or not, containing alcohol, in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold under any name, commonly used for alcoholic beverages, excepting the products excluded therefrom by the provisions of the Alcoholic Beverage Control Act of this state.

**BUILDING CONTAINING LICENSED PREMISES.** The licensed premises themselves and includes any part of any building in which the premises are contained and any part of any other building connected with the building by direct access or by a common entrance.

**CITY ADMINISTRATOR.** The City ABC Administrator.

**CUSTOMER.** Any person at least 21 years old.

**DISTRIBUTOR.** Any person who distributes malt beverages for the purpose of being sold at retail.

**MALT BEVERAGES.** Any fermented, undistilled alcoholic beverage of any kind or description, manufactured from malt, wholly or in part, or from any substitute for malt having an alcoholic content greater than that permitted under KRS Chapter 242. (3.2% of alcohol by weight)

**NONPROFIT.** These organizations that qualify for charitable contributions under Federal Internal Revenue Service Code, Section 501(c)(3).

**RETAILER.** Any person who sells at retail any alcoholic beverage for the sale of which a license is required.

**SALE.** Any transfer, gift, exchange, or barter and includes all sales made by any person, whether proprietor, agent, servant, or employee of any alcoholic beverage.

***Statutory reference:***

*Alcoholic beverages, see KRS Chapters 242-244*

#### **SECTION 6. HOURS OF OPERATION.**

(A) A licensed premise shall be permitted to remain open for any legal purpose, including the sale of alcoholic beverages, which includes malt beverages and distilled spirits and wine, between the hours of 6:00 a.m. and 1:00 a.m. the following day, and no person shall be permitted to remain within the licensed premise between the hours of 1:00 a.m. and 6:00 a.m. the

following day except for owners, employees or subcontractors while performing work on the licensed premise, including but not limited to plumbing, cleaning, or electrical repair, who shall be allowed on the premises at any time.

(B) All alcoholic beverages, including malt beverages and distilled spirits and wine, may be sold between the hours of 1:00 p.m., Sunday, and 12:00 midnight, Monday.

(C) Alcoholic beverages, including malt beverages and distilled spirits and wine, may be sold on New Years Eve between the hours of 6:00 a.m. and 2:00 a.m. the following day.

#### **SECTION 7. USE OF REVENUE.**

All moneys derived from the collection of license taxes provided for herein shall be paid into and become a part of the general fund of the city.

#### **SECTION 8. CITY ADMINISTRATOR.**

(A) There is created the office or position of City Administrator, pursuant to and under the authority of the Act of the General Assembly of the State, known as the Alcoholic Beverage Control Law. The Board of Commissioners shall appoint an individual from time to time to serve as the City ABC Administrator.

(B) The compensation to be paid the City Administrator, together with the compensation to be paid of any other personnel assisting the City ABC Administrator, shall be fixed from time to time by the Board of Commissioners.

(C) The bond for the City Administrator shall be in the same form and amount as required under KRS 241.180.

(D) *City Administrator enforcement of section, duties, and rule-making powers.*

(1) The City Administrator shall be charged with the enforcement of the state Alcoholic Beverage Control Law, and all other laws and ordinances, rules, and regulations providing for the regulation of the manufacture and traffic in alcoholic beverages.

(2) The City Administrator shall enter into a file, kept for that purpose, all orders, certificates, and approvals of applications issued by him or her concerning the privilege of the manufacture and traffic in alcoholic beverages. The City Administrator shall be empowered to do all and sundry of those things required of him or her, pursuant to the Alcoholic Beverage Control Law and existing ordinances, rules, and regulations of the city and such other laws and ordinances as may from time to time become effective.

(3) The City Administrator shall be empowered to make such rules and regulations as are necessary properly to enforce the above laws and not in conflict herewith.

(E) *Appointment; oath; bond.* The City Administrator shall take office on his or her appointment by the Board of Commissioners and on taking the oath and on the execution of the bond for the faithful performance of his or her duties as required by law.

(F) *Functions of City Administrator.* The functions of the City Administrator shall be in accord with the provisions of the laws of the state pertaining to alcoholic beverages, their administration and control.

(G) *Action on license application; appeals.*

(1) When an application is filed with the City Administrator for a license to do business in accord with the provisions of this Ordinance, the City Administrator shall either approve or disapprove the application, transmitting the application, together with his or her recommendations thereon, and the reasons therefor, to the State Department of Alcoholic Beverage Control.

(2) Appeals from order of the City Administrator shall be prosecuted in accord with the provisions of the laws of the state.

Statutory reference:

*Alcoholic beverages, see KRS Chapters 242 et seq.*

*City Administrator, see KRS 241.160*

#### **SECTION 9. CLUBS, LODGES, AND FRATERNAL ORDERS.**

(A) *Definitions.* For the purpose of this section, **CLUB, LODGE, or FRATERNAL ORDER** shall mean and include any non-profit social, fraternal, military, or political organization or club, lodge, or order whose organization shall have been completed at least one year prior to the date an application for a license is made for selling, offering for sale, or keeping, with the intention of selling at retail, for consumption on the premises, to members only or the invited guests of members of such club, lodge, organization, or fraternal order.

(B) *License required; nonresidential building.*

(1) No club, lodge, or fraternal order shall engage in the business of manufacturing, storing, purchasing, transporting, trafficking, or selling for consumption on the premises, any cereal, malted, or vinous beverages without having first obtained a license for each stand, place, room, or enclosure, or for each suite of rooms or enclosures.

(2) No license shall be issued to any club, lodge, organization, or fraternal order for the purpose of selling any cereal, malted, or vinous beverages in any dwelling house, flat, or apartment house used for residential purposes.

(C) *License application; issuance.*

(1) Whenever any club, lodge, organization, or fraternal order shall desire to engage in the business of selling by retail any cereal, malted, or vinous intoxicating beverages in the clubhouse of such organization in the city for consumption on the premises, it shall first apply to the City Administrator by a written application for a license. Such application shall set forth:

fraternal order;

- (a) The name and location of such club, lodge, organization, or
- (b) The names and addresses of the officers thereof;
- (c) The date and character of its organization; and
- (d) The approximate number of members in good standing, and shall, in addition thereto, be signed by the owner, or his or her agent, of the premises wherein the sales are to be made, signifying consent.

(2) If the City Administrator is satisfied that the license shall be granted, he or she shall pass an order to that effect and thereupon shall issue to the applicant a license to sell at retail such beverages, after a license has been issued by the State Alcoholic Beverage Control Department.

*(D) License fee; proration refunds.*

(1) Every applicant who shall be granted a license by the City Administrator and before the license is issued shall pay to the city for the license the sum of \$300.00 per year.

(2) When the license is issued after August 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until April 30 next; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(3) No part of any money paid into the city treasury for any license provided herein shall be refunded to the licensee.

*(E) Display of license.* When a license shall have been granted and issued under this section, the club, lodge, organization, or fraternal order to whom the license is granted and issued shall cause the license, or in case of loss or destruction a copy thereof, to be kept or placed in some conspicuous place in the room where the alcoholic beverages are sold, in such manner as to enable the license to be conveniently read. The license shall remain on display during the period for which the license shall be granted.

*(F) Forfeiture or revocation of license; hearing on charge.* If any club, lodge, organization, or fraternal order to whom a license is granted under this section is convicted in the district court of violating any of the provisions of this section or conducting a disorderly house, such conviction shall operate as a forfeiture of its license. If the City Administrator finds that the club, lodge, or fraternal order to whom a license is granted is violating any of the provisions of this section, conducts a disorderly house on the premises, or permits any lewd, riotous, or disorderly conduct on the premises, the City Administrator may hold a hearing to determine whether the license should be suspended or revoked. The decision of the City Administrator may be appealed within ten days to the State Department of Alcoholic Beverage Control

## **SECTION 10. LICENSING AND HEARINGS.**

### ***(A) License required.***

(1) No person shall sell, vend, deliver, or traffic in spiritous, vinous, or malt liquors within the city without first having procured a license so to do, nor without having first complied with all the provisions of the statutes of the state and the laws of the United States applicable thereto.

(2) No license for the sale or manufacture of alcoholic beverages shall be granted or renewed for the operation on any premises, or to any person, firm, partnership, or corporation, on or against which taxes, assessments, or other financial claims of the city are delinquent or unpaid.

***(B) License application; contents.*** Any person desiring to engage in the business of distilling, wholesaling spirituous, vinous, or malt liquor, or to engage in the retail sale of same by package or drink shall, before so doing, file with the City Administrator an application on forms provided by the city, which shall be verified and contain the following information:

(1) The name, age, address, and residence of each applicant and if there is more than one and they are partners, the partnership, names, and their addresses; and if the applicant is a corporation, the application shall contain the name and address of the corporate officers, the board of directors, any and all stockholders, and the name and address of the agent for service of process;

(2) Whether or not the applicant is a citizen and resident of the state and for what period of time;

(3) The name and address of each person interested or to become interested in the business for which the license is being sought, together with the nature of that interest, and if the applicant is a corporation; the names, addresses, and agents of each officer, director, and managerial employee and the name of the state under the law of which such corporate applicant is incorporated;

(4) The street and number of the premises to be licensed, whether or not applicant is the owner of such premises or what interest he or she has therein and the name and address of any other person, either as principal or associate, who is interested with applicant either in the premises or in the business to be licensed;

(5) A statement that the applicant will, in good faith, abide by every statute, federal or state, and the ordinances of the city relating to the manufacture, sale, and transportation of alcoholic beverages that may or shall be in force pertaining thereto;

(6) A statement that neither the applicant nor any person interested or to become interested therein has been convicted of any felony at any time or convicted of any misdemeanor or violation directly or indirectly attributable to the use, manufacture, sale or traffic in alcoholic beverages within two years preceding the date of application and that he or she has

not had any license that has been issued to him or her for such purposes, suspended or revoked for cause within two years prior to the date of such application; and

(7) If the City Administrator is satisfied that the license should be granted, an order shall be passed to that effect and thereupon a license shall be issued to the applicant.

(C) *Certified check required; refund on rejection.* All applications filed for a license pursuant to this section shall be accompanied by a certified check in the amount of the cost of the license applied therefor. If the application for the license shall be rejected, the check shall be immediately returned to the applicant.

(D) *Change in fact situation after issuance of license; supplemental statements.* If, after a license has been issued, there is a change in any of the facts required to be set forth under this section, a verified supplemental statement, in writing, giving notice of such change shall be filed with the City Administrator within ten days after such change occurs.

(E) *Conditions of premises.*

(1) 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 possession of the premises under a written lease for a term of not less than the license period.

(2) No premises shall be licensed for the sale of alcoholic beverages at retail, except where the licensee's premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(F) **{Reserved}**

(G) *Qualification of licensee.* No person shall become a licensee under the provisions of this section who:

(1) Has been convicted of any misdemeanor or felony directly or indirectly attributable to the use of alcoholic beverages within two years preceding the application;

(2) Is under the age of 21 years; or

(3) Is not an actual bona fide resident of the state, or of the United States.

(H) *Licenses; expiration date.* All licenses issued under or pursuant to the provisions of this section shall expire on June 30 of each year.

(I) *Prorate license fees.*

(1) When any person applied for a new or transfer of an existing license authorized to be issued pursuant to the provisions of this section after October 1 of any year, he or she shall be charged, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until



the following June 30; provided, however, that no license shall be issued for less than 50% of the annual license fee.

(2) No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(J) *License fees.* 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 the Kentucky Revised Statutes, there is hereby established a corresponding city license for each of the state licenses. The fee for each city license shall be as set out in the following schedule:

(1) Malt beverages:

Type of License	Fee
Distributor's license, per annum	\$400.00
Retailer's license, per annum	\$200.00
Special temporary license, per event	\$50.00
Microbrewery license, per annum	\$500.00

(2) Distilled spirits and wine:

Type of License	Fee
Wholesaler's license, per annum	\$3,000.00
Retail package license, per annum	\$800.00
Restaurant drink license (wine and distilled spirits), per annum***	\$800.00
Special temporary license, per month	\$100.00
Special private club license, per annum	\$300.00
Special Sunday retail wine and/or distilled spirits drink license, per KRS 244.290(3)(b), per annum	\$300.00
Nonresident, special agent or solicitor's license, per annum	\$40.00
Restaurant wine license per KRS 243.032, per annum	\$600.00 for new applicants \$400.00 for renewal
Temporary wine license, per event	\$50.00
Caterer's license, per annum	\$800.00
Distiller's license, per annum	\$500.00

**\*\*\*Must be bona fide restaurant open to the general public having dining facilities for not less than one hundred (100) persons; or a hotel, motel, or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons.**

The City may, as the occasion arises, issue any licenses and collect fees permitted by law for the privilege, manufacturing and trafficking in alcoholic beverages, as designated in KRS 243.070, as amended, as allowed under governing state law.

Statutory reference:

*City license fees, see KRS 243.070*

(K) *Regulatory License Fee.* There is hereby imposed a regulatory license fee on the gross receipts of sale of alcoholic beverages of each license issued by the City Administrator. As of the time of adoption of this Ordinance, the 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 sales of package malt beverages. These percentage rates are reasonably estimated to reimburse the City for the cost of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages. Such fee shall be in addition to any other tax, fee or license permitted by law, but a credit against such fee shall be allowed in an amount equal to the license or fee imposed and such regulatory fee shall be applied annually from January 1 to December 31. Payment of such regulatory fees shall be paid to the City, to the attention of the City Administrator, and payment shall be due no later than by the end of the month immediately following each calendar quarter at which time one-fourth (1/4) of the annual license fees paid otherwise hereunder by the taxpayer shall be deducted as a credit. Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and subjects the licensee to suspension or revocation of its license. The civil penalty for failure to pay quarterly admittances when due is five percent (5%) of the unpaid tax for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five percent (25%) of the tax, provided, however, in no case shall the penalty be less than Ten Dollars (\$10.00). Interest at the rate of Eight Percent (8%) per annum will apply to any late payments.

(L) *Contents of license.* All licenses issued pursuant to this Ordinance shall contain the following information:

- (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 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; and
- (7) A statement in substance that the license shall not be a property or vested right and that it may be revoked or suspended at any time pursuant to law.

(M) *Display of license; duplicate licenses.*

(1) Before commencing or doing any business for the time for which a license has been issued, the license shall be posted and at all times displayed 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.

(2) Whenever a license is lost or destroyed without the fault of the licensee or his or her agent or employee, a duplicate license shall be issued on proof of loss satisfactory to the City Administrator and upon the payment of a fee of \$5.

(N) *License revocation or suspension.*

(1) Any license issued pursuant to this Ordinance maybe revoked or suspended by the City Administrator, after complying with the hearing requirements below, for the following causes:

(a) Conviction of the licensee or his or her agent or employee of selling any illegal beverages on the premises licensed;

(b) If the licensee makes any false material statements in an application for a license; or

(c) If the licensee violates any provisions of the laws of the state, the United States government, or the ordinances of the city, pertaining to alcoholic beverages, their regulation and control;

(d) Conviction of the licensee of any felony; or

(e) Conviction of the licensee, or his or her agent who controls or operates the licensee's premises, of any offense pertaining to prostitution, illegal gambling, knowingly possessing or receiving stolen property, sale or use of illegal drugs, or the illegal sale or use of controlled substances or prescription drugs; or

(f) If the licensee allows the premises to be used as the site for any criminal activity as defined by City ordinance or regulation, state or federal law or regulation.

(g) If the licensee allows the premises to be used as the site for any public nuisance;

(h) If licensee allows the premises to be used as the site for a sexually oriented business; or

(i) If the licensee is delinquent or in default of an obligation to pay a loan, fine, lien or other financial obligation to the city, then license is subject to suspension until the obligation is satisfied.

(j) If the licensee violates any of the provisions of KRS 244.080 or KRS 244.085.

(k) If the licensee is in non-compliance and/or violation of the provisions of SECTION 10. LICENSING AND HEARINGS, subsection (Q) of this Ordinance.

(2) The existence of any delinquent or unpaid city taxes, assessments, or other financial claims against or on any person, firm, partnership, corporation, or premises, licensed for the sale or manufacture of alcoholic beverage shall be cause for revocation of the license of the person, firm, partnership, or corporation, or for the premises.

(O) *Suspension of license.* The City Administrator may, after a hearing, order a suspension of the license for up to 180 days for any cause which he or she may, but is not required to, revoke under the provisions of the Alcoholic Beverage Control Act of the state and the ordinances of the city. The suspended licensee may pay a fine of \$50 per day in lieu of the suspension, subject to the approval of the City Administrator. The City Administrator shall issue a written order of such suspension via regular United States mail to the licensee's address indicated on the license.

(P) *Issuance of license after revocation.* Any person, partnership, LLC, or other corporate entity who has suffered, or any of its members or partners have suffered, a revocation of a license to do business under the provisions of this Ordinance shall not again be licensed for that purpose within a period of two years after the date of revocation.

(Q) *Conditions of accepting license.* All licenses issued pursuant to this Ordinance shall be accepted by the applicant subject to the following conditions.

(1) That the premises so licensed shall be subject to the entry of police, the City Administrator or other duly authorized representatives of the city, at all reasonable hours for the purpose of inspection and search, and for the removal from the premises of all things and articles contained on the premises in violation of the ordinances of the city and the laws of the state.

(2) The licensee holding a license pursuant to this Ordinance shall not sell any spirituous, vinous, or malt liquor behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide or screen the sales from the public view, in conformity with state law.

(3) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly. The license of any establishment deemed to be a disorderly premises may be subject to revocation or suspension. Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk through:

(a) Engaging in, or allowing customers to engage in, fighting or in violent, tumultuous, or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(4) Treating or giving away alcoholic beverages at no cost to the customer, in violation of Kentucky Revised Statutes, as amended, shall be unlawful and is forbidden.

(5) No spirituous, vinous, or malt liquors shall be sold or dispensed to any minor nor shall the licensee sell, give away, furnish, or permit to be consumed on the premises any spirituous or vinous liquors or mixtures thereof during hours when the sale of alcoholic beverages is prohibited. In the event a licensee hereunder is also engaged in the business of operating a delicatessen, grocery, restaurant or other such establishments, he or she may keep his place of business open during the prohibited hours heretofore set out. The licensee must cover all malt beverages or conspicuously post a sign which indicates that the malt beverage is not available for sale or make the malt beverage completely inaccessible to the public. Failure to so comply shall be deemed a violation of this section.

(R) *Placing of license in dormancy.* Any alcoholic beverage license holder who places his or her license in dormancy in accordance with the regulations of the State Department of Alcoholic Beverage Control or pursuant to state statute shall also automatically, without further action or approval, have placed his or her city alcoholic beverage license in dormancy. The obligation to pay license fees to the city shall continue while any alcoholic beverage license is in dormancy.

(S) *Hearings.* Revocation or suspension proceedings shall be governed as follows:

(1) *Notice of hearings.* The City Administrator shall provide written notice, via regular United States mail or hand delivery to the licensee, notice of any hearing related to the possible suspension or revocation of the licensee's alcoholic beverage license. The address provided by the licensee to the city on its license application shall be deemed the address for notice of hearing. The licensee shall notify the city of any change of address subsequent to the submission of an application for license. Notice to the licensee must be postmarked at least seven days prior to the hearing. Notice of any hearing shall be publicly posted at City Hall at least 24 hours prior to the hearing.

(2) *Procedure.*

(a) The City Administrator shall be the hearing officer for any proceedings related to the possible suspension or revocation of any city alcoholic beverage license.

(b) Any hearing before the City Administrator shall be a public hearing and conducted in accordance with the procedural guidelines indicated in KRS 13B.080 and 13B.090.

(c) The city's legal counsel, or his or her designee, shall represent the city at the hearing. The licensee has a right to retain counsel for representation at the hearing.

(d) The City Administrator shall issue a written decision, including findings of fact and conclusions of law, within seven days of the conclusion of the hearing.

(3) *Appeals.* Any order of suspension or revocation issued by the City Administrator may be appealed to the State Alcoholic Beverage Control Board within 30 days of the date of the order.

## **SECTION 11. WHOLESALE DISTRIBUTION AND SALES.**

(A) *Definition.* As used in this section, **DISTRIBUTION OR SALE BY WHOLESALE OF CEREAL, MALTED, OR VINOUS BEVERAGES** shall be held to include any person maintaining a place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, either in bottles or other containers for resale.

(B) *Nonalcoholic beverages exempted.* This section shall not apply to the sale of lemonade, soda water, mineral water, ginger ale, pop, or other soft drink containing no percent of alcohol.

(C) *License required.* No person shall engage in the business of distribution or sale by wholesale of any cereal, malt, or vinous beverage, without first having obtained a license therefor.

(D) *License fee; separate places; expiration date.*

(1) Any person desiring to engage in the distribution or sale by wholesale of any cereal, malt, or vinous beverage shall first obtain from the City Administrator a license therefor, for which he or she shall pay the license fees as provided in this Ordinance.

(2) If any person maintains more than one place of business or warehouse, agent, distributor, broker, or jobber from which orders are received or beverages are distributed, then the person shall pay an additional fee per year for each separate place of business or warehouse, agent, distributor, broker, or jobber. The fees to be paid are in the amounts as provided in this Ordinance.

(3) All licenses provided for herein shall commence as of July 1 and expire on June 30 next after the date of issue. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on said business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

(E) *Hours of operation restricted.*

(1) The distribution and sales by wholesale and delivery of any cereal, malt, or vinous beverages may occur between the hours of 6:00 a.m. and 12:00 midnight, Monday through Saturday.

(2) No person shall distribute and sell by wholesale any such beverages at any time during the 24 hours of Sunday.

*(F) Distributor's license.*

(1) A distributor's license shall authorize the licensee to purchase, import, or store malt beverages and to sell them only in and to the licensed premises, to other distributors and to retailers. A distributor may transport malt beverages subject to the same requirements provided by Kentucky Revised Statutes.

(2) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber, or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

**SECTION 12. RESTAURANT DRINK LICENSE.**

(A) The Board of Commissioners of the City of Corbin, Kentucky, hereby determines, acknowledges and declares that an economic hardship exists within the City of Corbin, Kentucky, and that the sale of alcoholic beverages by the drink could aid economic growth and there is a need for Restaurant Drink Licenses to be issued pursuant to KRS 242.185(1)(2)(3)(4)(5) and hereby approves same.

(B) The licensee under this Section must be a bona fide restaurant open to the general public having dining facilities for not less than one hundred (100) persons; or a hotel, motel, or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons.

**SECTION 13. PACKAGE RETAIL LIQUOR OUTLET.**

(A) No person shall drink any alcoholic beverages in any public place or in any motor vehicle on any parking lot area or other facility used by any package liquor license holder in connection with his or her business in any manner.

(B) All persons, firms, corporations, partnerships, joint ventures, or sole proprietorships shall be required to post a sign or signs on all parking lots adjacent, adjoining, or connected with or used by a package liquor retail sales outlet. The licensee shall provide the City Administrator with a drawing of his or her normal entrances, driveways, or other access onto the parking lot and all customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. The licensee shall post lighted signs at normal vehicle or pedestrian exterior entrances via driveways or other access to the parking lot. The licensee shall post signs of identical wording, readable from 50 feet, at customer or patron driveway entrances to and exits from the building from which the package alcoholic beverage is dispensed. Wording of all such signs shall be: NO DRINKING ON PARKING LOT. VIOLATORS WILL BE PROSECUTED! MINIMUM FINE \$100.00, MAXIMUM FINE \$500.00 (CITY ORDINANCE).

(C) Any person, firm, corporation, partnership, or joint venture which fails to prohibit the drinking of any alcoholic beverages on a parking lot adjacent, adjoining, or connected with a package liquor retail sales outlet shall be deemed in violation hereof. Any person, firm, corporation, partnership, or joint venture which has erected and properly maintained and lighted a sign, as required by division (B) above, shall be exempt from the provisions hereof.

**SECTION 14. {RESERVED}**

**SECTION 15. {RESERVED}**

**SECTION 16. SPECIAL SUNDAY RETAIL DRINK LICENSES.**

(A) *Establishment.* There are hereby established a city special Sunday restaurant wine license, pursuant to the authority granted by KRS 243.032 and KRS 243.070, and a city special Sunday restaurant drink license, pursuant to the authority granted by KRS 242.185 and KRS 243.070.

(B) *Restrictions.* The holder of the special Sunday restaurant wine license shall be governed by the restrictions contained in KRS 243.032 and the regulations of the City Alcoholic Beverage Administrator. The hours of operation for holders of package and retail drink licenses shall be governed by Section 6. that outlines the hours of operation allowed for licensed premises.

(C) *Fee.* The fee for the special Sunday retail drink license shall be as established by this Ordinance and shall become due and payable on June 1 of each year. When a license is issued after October 1 of any year, the licensee shall be required only to pay a proportionate part of the license tax required therefor from the first day of the month in which the licensee commences to carry on the business until June 30 next. However, no license shall be issued for less than 50% of the annual license fee.

**SECTION 17. SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES PROHIBITED.**

(A) No employee or independent contractor of a licensed liquor establishment shall solicit patrons of said establishment to purchase any alcoholic beverage for consumption by any employee or independent contractor of the licensed liquor establishment.

(B) No employee or independent contractor of a licensed liquor establishment shall be compensated in any manner that is measured by a percentage or fraction of beer or liquor retail sales.

**SECTION 18. ALCOHOL WARNING SIGNS; DRINKING ALCOHOL DURING PREGNANCY.**

All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least 11 inches by 14 inches in size, with letters at least one-inch high, which shall warn that drinking alcoholic beverages during pregnancy can cause birth defects.

**SECTION 19. PENALTY.**

Any person found guilty of violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$500.00 or by imprisonment in the county jail for not more than 6 months, or both fine and imprisonment in the discretion of the court. This penalty may be imposed in addition to any administrative penalty imposed by the City Alcoholic Beverage Control Administrator or the State Alcoholic Beverage Control Board.



**SECTION 20. REPEAL OF ORDINANCES AND/OR PORTIONS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE.**

On the effective date of this Ordinance, all Ordinances and/or portions of Ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 21. SEVERABILITY.**

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

**SECTION 22. EFFECTIVE DATE.**

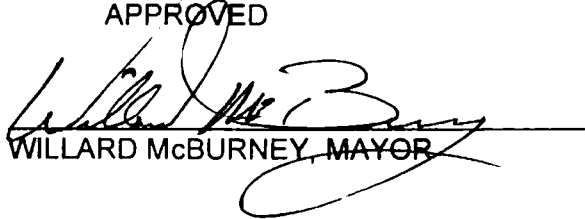
This Ordinance shall take effect upon proper passage and legal advertisement.

FIRST READING 4-9-2012

SECOND READING 4-10-2012

APPROVED

BY:

  
WILLARD McBURNEY, MAYOR

ATTEST:

  
ERIN TYE, CITY CLERK