

ORDINANCE NO. 1822

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 Senate Bill 13 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, 2.5-13 and 2.5-14 of the City of Danville Code of Ordinances are hereby deleted in their entirety and replaced with a new Section 2.5-12 to read as follows:

~~Sec. 2.5-12.—Distilled spirits and wine license fees.~~

~~The following distilled spirits and wine licenses may be issued by the city, the fees for which shall be:~~

- ~~(a) — Distiller's license, per annum \$ 500.00~~
 - ~~(b) — Rectifier's license, per annum 3,000.00~~
 - ~~(c) — Blender's license, per annum 3,000.00~~
 - ~~(d) — Wholesaler's license, per annum 3,000.00~~
 - ~~(e) — Retail package license, per annum 800.00~~
 - ~~(f) — Retail drink, motel drink, airport drink, restaurant drink or supplemental bar license, per annum 800.00~~
 - ~~(g) — Special temporary liquor license per event — 130.00~~
 - ~~(h) — Restaurant wine license, per annum:
 - ~~(1) — New applicants 600.00~~
 - ~~(2) — Renewals — 400.00~~~~
 - ~~(i) — Special Sunday sale retail drink license, per annum 300.00~~
 - ~~(j) — Special temporary wine license, per event — 50.00~~
 - ~~(k) — Special temporary auction license, per event 200.00~~
 - ~~(l) — Nonresident special agent or solicitor's license, per annum — 40.00~~
 - ~~(m) — Bottling house or wine storage license, per annum — 1,000.00~~
 - ~~(n) — Souvenir retail liquor license, per annum — 1,000.00~~
- ~~(Ord. No. 1765, 4-12-10)~~

Sec. 2.5-13. — Malt beverage license fees.

The following kinds of malt beverage licenses may be issued by the city, the fees for which shall be:

- (a) ~~Brewer's license, per annum \$500.00~~
 - (b) ~~Microbrewery license, per annum 500.00~~
 - (c) ~~Distributor's license, per annum 400.00~~
 - (d) ~~Retailer's license, per annum 200.00~~
 - (e) ~~Special temporary license, per event 25.00~~
 - (f) ~~Special Sunday malt beverage retailer's license, per annum 125.00~~
 - (g) ~~Brew on premises license, per annum 100.00~~
- (Ord. No. 1765, 4-12-10)

Sec. 2.5-14. Other license fees.

The following kinds of other licenses may be issued by the city, the fees for which shall be:

- (a) ~~Convention center license, per annum \$2,000.00~~
 - (b) ~~Extended hours supplemental license, per annum 2,000.00~~
 - (c) ~~Horse race track license, per annum 2,000.00~~
 - (d) ~~Caterer's license, per annum 800.00~~
 - (e) ~~Riverboat license, per annum 1,200.00~~
 - (f) ~~Automobile race track license, per annum 2,000.00~~
 - (g) ~~Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine, and malt beverages) new applicants 1,000.00~~
 - (h) ~~Special private club license, per annum 300.00~~
- (Ord. No. 1765, 4-12-10)

Sec. 2.5-12. City Licenses.

- (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~~
 - 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
- (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) 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) 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) 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 ~~distilled spirits and~~

~~wine license or a special temporary wine license may be issued only as set out in KRS. 243.260. This license shall authorize the licensee to exercise the privileges of a quota retail drink license and an NQ4 retail malt beverage licensee at designated premises the license 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. In the case of a nonprofit organization holding a retail malt beverage license, such organization may be issued a distilled spirits and wine special temporary license or a special temporary wine license to sell distilled spirits and wine by the drink on the licensed premises, in conjunction with any public or private event, for a specified and limited time, not to exceed ten (10) days. A malt beverage temporary license may be issued only as set out in KRS 243.290 and is subject to all conditions and regulations provided at the issuance of the license.~~

~~(b) Private club license. A special private club license may be issued only as authorized in KRS 243.270 to a nonprofit social, fraternal, military, or political organization or club, which for more than one (1) year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded. The privileges of the license shall be exercised only on premises where the general public is excluded.~~

~~(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) 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.~~

~~(d) All restrictions and prohibitions applying to regular retail drink distilled spirits and wine licenses and retail malt beverage licenses shall apply to the special licenses, unless otherwise provided by law.~~

SECTION THREE:

Section 2.5-16 of the City of Danville Code of Ordinances is hereby amended to read as follows:

(a) All city licenses, except special temporary licenses, shall ~~begin on June 1 of any year and shall be valid for a period of no more than one year expire on May 31 of the following year.~~ and shall begin and end on the dates specified by the Department of Alcoholic Beverage Control Administrative Regulations for the City of Danville. Any licenses issued after December 31 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. When any person applies for a new license authorized by KRS Chapter 241 to 244 and CDO Chapter 2.5 he or she shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(b) The renewal by the City of Danville of the certificate or permit of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.

SECTION FOUR:

The header of Section 2.5-53 along with Section 2.5-53(a) of the City of Danville Code of Ordinances is hereby amended to read as follows:

Sec. 2.5-53. Review of license; books, records, audio and visual recordings, and reports

(a) 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 licensee and examine the books, audio and visual recordings, and records to determine whether the licensee is in compliance with all parts of this chapter. In the event the conditions of any license requirement are not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee 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.

SECTION FIVE:

Section 2.5-61(d) of the City of Danville Code of Ordinances is hereby deleted in its entirety as follows:

~~(d) — The licensee shall not sell or dispense any distilled spirits, wine or malt beverages during the hours that the polls are open on any election day.~~

SECTION SIX:

Section 2.5-86 shall be added to the City of Danville Code of Ordinances and shall read as follows:

Sec. 2.5-86. Retail Premises Not to Be Disorderly - Per KRS 244.120

1. A retail licensee, a patron, or the licensee's agents, servants, or employees shall not cause, suffer, or permit the licensed premises to be disorderly.

2. Acts which constitute disorderly premises consist of causing, suffering, or permitting patrons, the licensee, or the licensee's servants, agents, or employees to cause public inconvenience, annoyance, or alarm, or create a risk through:

- a. Engaging in fighting or in violent, tumultuous, or threatening behavior;
- b. Making unreasonable noise;
- c. Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency;
- d. Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;
- e. Creating a public nuisance which is further defined by KRS 241.010 (39);
- f. Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or
- g. Failing to maintain the minimum health, fire, safety, or sanitary standards established by the state or local government, or by state administrative regulations, for the licensed premises.

SECTION SEVEN:

Section 2.5-141 of the City of Danville Code of Ordinances are hereby amended to read as follows:

(a) All persons employed in the selling and serving of alcoholic beverage shall complete a server training course provided by the Kentucky Department of Alcoholic Beverage Control ~~participate in and complete a city approved responsible beverage service training program.~~ For a responsible beverage service training program to be approved by the city, it must effectively train its participants in the identification of false age documents and recognition of characteristics of intoxication. ~~The city will not require enrollment in particular classes, but only that the training be obtained from a recognized program meeting the goals expressed in this chapter.~~

(b) 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.

(c) Each licensee 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 pertinent training information. Each premise licensed hereunder must at all times when alcoholic beverages are being served have at least one person currently certified in responsible beverage service training on duty.

(d) All persons completing the training required by this section shall be re-certified in a responsible beverage ~~service~~ server training course provided by the Kentucky Department of Alcoholic Beverage Control ~~from a program approved by the city~~ not less than once every three (3) years thereafter.

SECTION EIGHT: This ordinance is effective upon its publication.

SECTION NINE: 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 _____.

GIVEN SECOND READING AND PASSED _____.

PUBLISHED IN THE *ADVOCATE-MESSENGER* _____.

APPROVED:

BERNIE HUNSTAND, MAYOR

ATTEST:

DONNA PEEK, CITY CLERK

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