

ORDINANCE NO. 1-2021

FIRST READING 1-19-2021
SECOND READING 2-16-2021

AN ORDINANCE ESTABLISHING REGULATIONS AND REQUIREMENTS FOR ALCOHOL BEVERAGE CONTROL (ABC), HEREINAFTER TO BE KNOWN AS THE CITY OF MT. STERLING, KENTUCKY "ALCOHOL BEVERAGE CONTROL ORDINANCE"; AND FURTHER ADOPTING ALL APPLICABLE AND REQUIRED KENTUCKY REVISED STATUTES (KRS), INCLUDED BUT NOT LIMITED TO KRS CHAPTERS 241 THROUGH 244, IN ORDER TO COMPLY WITH NEW AND REVISED PROVISIONS AS UPDATED BY THE GENERAL ASSEMBLY AND ADMINISTRATIVE AGENCIES, AND

WHEREAS, the existing Comprehensive Regulatory Ordinances for the Control, Licensing, Operation, Administration, and Enforcement of the sale of alcoholic beverages city ordinances are due for a review and update; and

WHEREAS, the City Council desires to consolidate all existing alcohol ordinances into one concise and complete ABC Ordinance; and

WHEREAS, the City Council desires to allow package and drink sales of distilled spirits, wine, and malt beverages seven days a week, with certain exceptions;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MT. STERLING, KENTUCKY THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AND SET FORTH BELOW:

SECTION 1 – GENERAL

- (A) This ordinance shall be known as the "Alcohol Beverage Control Ordinance" of the City of Mount Sterling, Kentucky.
- (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 Chapters 241 through 244.
- (C) The definitions of the words used throughout this Ordinance, unless the context requires otherwise, shall have the same meaning as those set out in the alcohol beverage control laws (KRS Chapters 241 through 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.
- (D) The provisions of the Alcohol Beverage Control Law of the Commonwealth of Kentucky (KRS 241 through 244) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

SECTION 2- OFFICE OF ALCOHOL BEVERAGE CONTROL ADMINISTRATOR

- (A) The City of Mt. Sterling shall assign all ABC duties to the Code Enforcement Officer.
- (B) The City ABC Administrator shall take the oath prescribed in section 228 of the Kentucky Constitution before entering upon such duties.
- (C) The ABC Administrator shall have the authority and powers to enforce existing KRS and local ordinances that are related to ABC matters within the city limits only.
- (D) The ABC Administrator, along with officers assigned to the City Police Department, may inspect any premises where alcohol beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.
- (E) Before entering upon his/her duties, the ABC Administrator shall execute a performance bond with a good cooperate security in the sum of not less than one thousand dollars (\$1,000). Any additionally city employees assigned ABC duties will also be required to execute a performance bond. The cost of any bonds shall be borne by the City of Mount Sterling.
- (F) Appeals from the orders of the ABC Administrator may be taken as prescribed by KRS 241.150.

SECTION 3 – LICENSE APPLICATION PROCEDURE

- (A) Each person or party, before applying to the Kentucky Alcoholic Beverage Control Board under the provisions of KRS Chapter 243, to do business in the city, shall first notify the city ABC Administrator of the intent to file application with the state, and then apply for city license once state application is approved. Additionally, all applicants must also obtain a City Business License in accordance with Ordinance 13-2019.
- (B) Such licenses shall conform in their provisions and the business authorized to kindred state licenses.
- (C) Such application for the city license shall be in the form of a verified copy of the license application prescribed by the Kentucky Alcoholic Beverage Control Board, containing all of the information and documents required by the provisions of KRS 243.390, and shall otherwise comply with all provisions of the law.
- (D) The ABC Administrator shall either approve or disapprove any such application in accordance with the law.
- (E) Upon approval of any such application, the applicant shall pay the amount of the license fee provided in this Ordinance to the ABC Administrator, who shall issue the license.

SECTION 4 – ALCOHOL BEVERAGES LICENSES AUTHORIZED – LICENSE FEES

(A) The following kinds of alcoholic beverage licenses may be issued by the ABC Administrator or the City, the fees for which will be:

1) Quota retail package license (per annum)	\$630.00
2) Quota retail drink license (per annum)	\$630.00
3) Special temporary license (per event)	\$75.00
4) Non-quota type 1 (per annum)	\$2000.00
5) Extended hours supplemental license (per annum)	\$2000.00
6) Non-quota type 2 retail drink license (per annum)	\$262.50
7) Non-quota type 3 retail drink license (per annum)	\$262.50
8) Special Sunday retail drink license (per annum)	\$37.50
9) Limited restaurant license (per annum)	\$262.50
10) Limited golf course license (per annum)	\$262.50
11) Qualified historic site license	\$1,000.00
12) Non-quota retail malt beverage package license (per annum)	\$200.00
13) Non-quota type 4 retail malt beverage drink license (per annum)	\$200.00
14) Caterer's license (per annum)	\$262.50
15) Distiller's license, (per annum)	\$500.00
16) Rectifier's license (Class A per annum)	\$3,000
17) Rectifier's license (Class B craft rectifier per annum)	\$960.00
18) Wholesaler's distilled spirits and wine license (per annum)	\$3,000
19) Bottling house or bottling house storage license (per annum)	\$1000.00
20) Brewer's license (per annum)	\$500.00
21) Microbrewery license (per annum)	\$500.00
22) Malt beverage distributor's license (per annum)	\$400.00

(B) In accordance with KRS 243.070, fees may not be increased by more than five percent (5%) for the current license during any five-year period. All fees are subject to the maximum amounts allowed listed in the statute.

SECTION 5 – LICENSE PERIOD – TIME OF PAYMENT – DELINQUENCY

(A) The local license period for all forms of alcoholic beverage licenses shall conform to the period covered by kindred licenses issued by the state; and such licenses, other

than special temporary licenses, when issued, shall be valid for a period of no more than one (1) year. The licensing period for the City will be the same as the Fiscal Year (July 1 through June 30).

- (B) The annual license renewal fees provided in this Ordinance shall be paid no later than June 30. Any person or entity who fails to pay the license fees by said date shall be subject to revocation of such license and in addition shall pay a penalty of ten (10%) percent of the amount of the annual license renewal fee if the license is subsequently renewed. Failure to renew a license by June 30 will result in a revocation of privileges to sale alcoholic beverages until license is renewed.
- (C) When any person applies for a license authorized to be issued under this Ordinance the applicant shall be charged, if the license is issued, the full fee for the respective license if six 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.

SECTION 6 – DISPOSITION OF LICENSE FEES AND FINES IN LIEU OF SUSPENSION

- (A) All money derived from the collection of license fees, pursuant to the Ordinance, shall be paid into and become part of the General Fund of the City of Mount Sterling.

SECTION 7 – LICENSE TO CONTAIN CERTAIN INFORMATION

- (A) There shall be stamped or printed on the face of each license issued pursuant to this Ordinance the type of licensed issued, such as “RETAIL DRINK” or “RETAIL PACKAGE” and so forth, together with the words “LICENSE PERIOD SHALL BE JULY 1 (YEAR) THROUGH JUNE 30 (YEAR)”, and the year to be covered with such license, or, in the case of the special temporary licenses, the precise dates covered by the license.

SECTION 8 – LICENSE TO BE DISPLAYED

- (A) Before commencing or doing any business for the time for which a license has been issued, all licenses issued under this Ordinance shall be posted and at all times displayed in a conspicuous place in a room or principal room where the business is carried on, so that all persons visiting the place may readily see the license.
- (B) No licensee shall post the license or permit it to be posted upon premises other than the licensed premises or upon the premises where traffic of alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy, or alter the license in any respect.
- (C) Whenever a license is lost or destroyed, a duplicate license shall be issued upon proof of loss satisfactory to the ABC Administrator and upon payment of a fee of \$25.00

SECTION 9 – DELIVERY OF ALCOHOL AND HOURS OF SALE

- (A) It shall be unlawful for any distributor, wholesaler or manufacturer or for any agent or employee thereof to make such deliveries in such a way as to impede the normal flow of traffic or ingress and egress to and from a public roadway, right-of-way, or access point.
- (B) Provided that the appropriate state and local alcohol licenses are held, then distilled spirits, wine and malt beverages may be sold by the drink or by the package on the following days/times:
- Monday – 7:00 AM to 12:00 AM (MIDNIGHT)
 - Tuesday - 7:00 AM to 12:00 AM (MIDNIGHT)
 - Wednesday – 7:00 AM to 12:00 AM (MIDNIGHT)
 - Thursday - 7:00 AM to 12:00 AM (MIDNIGHT)
 - Friday – 7:00 AM to 12:00 AM (MIDNIGHT)
 - Saturday - 7:00 AM to 12:00 AM (MIDNIGHT)
 - Sunday - 1:00 PM to 12:00 AM (MIDNIGHT)*
 - * On the Sunday during the annual October Court Days Festival, sales may begin city wide at 7:00 AM and end at 12:00 AM (MIDNIGHT)

- (A) A licensee shall not permit the consumption of alcoholic beverages on the licensed premises for a period of more than thirty (30) minutes after the MIDNIGHT hour or for a period of more than thirty (30) minutes after closing.
- (B) A licensee shall establish security measures which will prohibit the public from purchasing alcoholic beverages during hours that sales are prohibited. Physical concealment or covering of alcoholic beverages is required during prohibited hours of sale. All cash registers or check out systems must be programmed to prohibit the sale of alcohol during prohibited hours of sale.

SECTION 10 – REQUIRED SIGNAGE

- (A) It shall be the duty of every retail licensee pursuant to KRS 244.083 to display at all times in a prominent place a warning to minors on a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in 30-point or larger type, the content of the warning in KRS 244.083.
- (B) It shall be the duty of every retail licensee pursuant to KRS 243.895 to post in a prominent place a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, which shall, in gender-neutral language supplied by the Cabinet for Health and Family Services, warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

SECTION 11– MINORS

- (A) The legal age to buy or consume alcoholic beverages in twenty-one (21) years of age.
- (B) 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.
- (C) No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use, or consume alcoholic beverages.
- (D) 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 or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.
- (E) As used in this section, the term "alcoholic beverages" shall have the meaning given to it in KRS 241.010.

SECTION 12– LAVATORY FACILITIES

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

SECTION 13– LICENSE REVOCATION OR SUSPENSION

- (A) Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or 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 be given written notice, delivered in person or 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 a proposed revocation or suspension. The notice of 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 received for or claimed.
- (B) The City ABC Administrator shall have the same powers and duties with respect to suspension and revocation of licenses granted under this Ordinance as the state alcoholic beverage control board has with respect to licenses granted under KRS Chapter 243 in addition to any other powers and duties granted to or imposed upon him by ordinance.
- (C) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of the provisions of KRS Chapters 241 to 244, or any rule or regulation of the state alcohol beverage control board, or of 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 Chapters 241 to 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed is 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.

- (D) A license may be revoked for any reasons for which the City ABC Administrator would have required to refuse a license if the facts had been known.
- (E) Upon proceedings for the revocation of any license under KRS 243.520, the City ABC Administrator may in it or his/her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. However, the licensee may have the alternative, subject to the approval of the City ABC Administrator, to pay in lieu of part or all of the days of any suspension period, a sum is follows:
 - 1) Except for violations arising from the retail sales activities, including sales under licenses issued pursuant to KRS 243.086 and sales at retail under KRS 243.0305 distillers, rectifiers, wineries, and brewers – one thousand dollars (\$1000) per day;
 - 2) Wholesale liquor licenses – four hundred dollars (\$400) per day;
 - 3) Wholesale beer licenses - four hundred dollars (\$400) per day;
 - 4) Retail licenses authorized to sell distilled spirits, wine, or beer by the package or drink – fifty dollars (\$50) per day;
 - 5) Distillers, wineries, and brewers for violations arising from their retail sales activities; including sales by distillers under licenses issued pursuant to KRS 243.086 and sales at retail under KRS 243.0305 – fifty dollars (\$50) per day;
 - 6) All remaining licenses – fifty dollars (\$50) per day.
- (F) In addition to or in lieu of a suspension of a license, the City ABC Administrator may order a licensee to pay for and require attendance and completion by some or all of the licensee's alcoholic beverage servers in an alcohol server training program.
- (G) A decision of the City ABC Administrator revoking or suspending a license may be appealed as provided in KRS 241.140. Appeal from the decision of the City ABC Administrator revoking or suspending a license shall be to the state alcoholic beverage control board. The timely filing of an appeal shall stay any penalty imposed

by the order until conclusion of the state alcoholic beverage control board appeal and any subsequent appeals.

- (H) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall suspend all operations authorized under his or her license upon effective date of this order.

SECTION 14- REGULATORY LICENSE FEE

- (A) In accordance with KRS 243.075, the City may impose a Regulatory License Fee on the gross receipts of sale of alcoholic beverages which may be used for costs associated with policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The City will not impose a Regulatory License Fee with this Ordinance. Any new Regulatory License Fee imposed in the future must be imposed with an effective date of July 1 which is the same date of the local licensing period and the City Fiscal Year.

SECTION 16- BEVERAGE SERVICE TRAINING

- (A) All persons, corporations, associations, restaurants, businesses, clubs, or other entities licensed or employed in the selling and/or serving of alcoholic beverages shall participate in and complete a responsible beverage serving program acceptable to the City ABC Administrator.
- (B) All persons required to complete training shall complete 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 licensee 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 as described herein.
- (D) All persons completing the training required by this section shall be re-certified not less than once every three (3) years thereafter. Each licensee shall maintain written proof of completion of service training on its business premises for each person connected with its business for whom training is required under this Ordinance. Training records shall be maintained for a minimum of three (3) years.
- (E) No person, corporation, association, restaurant, business, club, or other entity licensed or employed in the sale and/or serving of alcoholic beverages shall intentionally, willfully, knowingly, or wantonly authorize, direct, permit, allow or cause any employee, officer or agent of the license who has not completed the mandatory service training required in this section, to sell or serve any alcoholic beverages to anyone on the licensed premises. Any person, corporation, association,

restaurant, business, club, or other entity or any employee thereof, found to be in violation of any subsection of this Ordinance, shall upon conviction thereof, be fined in the amount not to exceed one hundred dollars (\$100); for subsequent violations within a two (2) year period and upon conviction thereof, a fine not to exceed five hundred dollars (\$500). Each day a violation occurs shall constitute a separate offense.

SECTION 17- SIGNAGE AND ADVERTISING

- (A) All signage shall be in compliance with any and all other existing rules, regulations, and Ordinances of the City of Mount Sterling.
- (B) No flashing lights shall be used to illuminate the exterior of any premises licensed under this Ordinance.
- (C) Any advertising by the licensee under this Ordinance shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

SECTION 19- ADULT ENTERTAINMENT AND DRINK SPECIALS

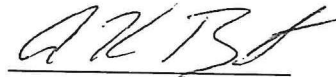
- (A) No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premises.
- (B) No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises.
- (C) No licensee shall sponsor or permit wet-tee shirt or wet clothing contests, lingerie fashion shows, mud 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.
- (D) No licensee shall sponsor, offer or permit drinking contests, "all you can drink" specials or free drinks on any licensed premise in the City.

SECTION 20- SEVERABILITY AND CONFLICTING CODE PROVISIONS REPEALED

- (A) Each word, phrase, sentence, section, and provision (each "portion") of this Ordinance is hereby declared to be independent and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any portion of said Ordinance, the adoption thereof, or the application thereof to any person or circumstance is held to be invalid, the remaining portions and the application of such portions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is declared that such portions would have been passed independently of such portion or portions so held to be invalid.

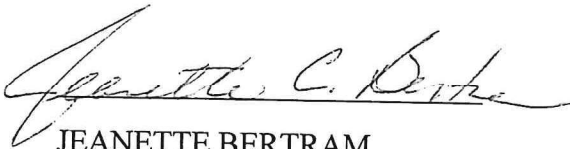
(B) Any provision(s) in the City of Mount Sterling Code of Ordinances specifically in conflict with any provision in this Ordinance is hereby deemed inoperative and repealed. All prior ordinances or parts thereof, in conflict with the provisions in this ordinance, are to the extent of any such conflict, hereby repealed.

SECTION 21-PUBLICATION - This Ordinance shall become effective upon passage and publication, but no sooner than March 15, 2021. Publication is authorized to be made in summary form as authorized in KRS 83.060 (9).



AL BOTTS, MAYOR

ATTEST:



JEANETTE BERTRAM

CITY CLERK