

ORDINANCE NO. 83-6

AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF RUSSELLVILLE, KENTUCKY, DEFINING TERMS; CREATING THE OFFICE OF CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR; REQUIRING LICENSES; SPECIFYING TYPES WITH THE FEES FOR EACH AND RESTRICTING LOCATION OF LICENSEES; PROVIDING FOR THE ISSUANCE OF LICENSES AND PAYMENT OF FEES; SETTING THE TERMS OF LICENSES; REQUIRING THE DISPLAY OF LICENSES AND PROVIDING FOR REPLACEMENT OF LOST OR DESTROYED LICENSES AND FEE THEREFOR; REQUIRING STATE LICENSE; SPECIFYING HOURS WHEN SALES PERMITTED; SPECIFYING THAT SUBMITTING APPLICATION CONSENTS TO ENTRY, INSPECTION, AND SEARCH, REMOVAL, AND INTRODUCTION IN EVIDENCE; IMPOSING A REGULATORY LICENSE FEE; RESTRICTING ADVERTISING AND SIGNS; PROVIDING FOR REVOCATION AND SUSPENSION OF LICENSES IN THE EVENT OF VIOLATIONS OF STATE OR FEDERAL LAW OR OF THIS ORDINANCE; PROVIDING FOR PENALTIES; PROVIDING IMMUNITY; PROVIDING FOR THE EFFECTIVE DATE HEREOF; WITH A SEVERABILITY PROVISION.

BE IT ORDAINED BY THE CITY OF RUSSELLVILLE, KENTUCKY, THAT:

I. DEFINITIONS

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

A. The terms "alcohol," "alcoholic beverage," "building containing licensed premises," "convicted," "conviction," "distilled spirits" or "spirits," "distributor," "malt beverage," "premises," "retail sale," "retailer," "sale," "sell," "wholesale sale," "wholesaler," and "wine" shall have the same definitions as set forth in KRS 241.

B. "City Administrator" shall mean the duly appointed Alcoholic Beverage Control Administrator for the City of Russellville, Kentucky.

C. "License" shall mean any license issued pursuant to this Ordinance.

D. "Licensee" shall mean any person, partnership, corporation, or other business entity to which a license has been issued

pursuant to this Ordinance.

II. CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR: TITLE, POWERS AND DUTIES, OATH, BOND, AND COMPENSATION

There is hereby created the office of City Alcoholic Beverage Control Administrator. The functions and duties of this office shall be the same with respect to local licenses and regulation as those of the state Alcoholic Beverage Control Board are to state licenses and regulation. The City Alcoholic Beverage Control Administrator shall take the oath prescribed in Section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of \$1,000.00. The salary for this office shall be set at the sum of \$500.00 per month with all benefits available to full-time employees of the City.

III. LICENSE REQUIRED

No person, firm, or corporation shall do any act authorized by any kind of license provided for in this chapter with respect to the storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless the person, firm, or corporation holds the kind of license from the city which authorizes such act. No person, firm, or corporation which conducts a place of business patronized by the public and which does not hold a license to sell distilled spirits, and wine or malt beverages shall permit any person to sell, barter, loan, give away, or drink distilled

spirits, wine, or malt beverages on the premises of his place of business.

IV. TYPES OF LICENSES: FEES

A. The following kinds of distilled spirits and wine licenses and malt beverage licenses may be issued by the City and the annual fees for each license shall be:

Distilled Spirits and Wine Licenses

Distilled Spirits and Wine Wholesaler's License	\$3,000
Distilled Spirits and Wine Retail Package License	\$ 600
Distilled Spirits and Wine Restaurant Wine License	\$ 300

Malt Beverage Licenses

Malt Beverage Distributor's License	\$ 400
Malt Beverage Retail Package Carry-out License	\$ 200
Malt Beverage Retail Drink License	\$ 200

B. The issuance of a Distilled Spirits and Wine Wholesaler's License, a Distilled Spirits and Wine Retail Package License, a Restaurant Wine License, and a Malt Beverage Distributor's License shall authorize the licensee to do the acts authorized by the corresponding state license within the city limits of Russellville, Kentucky, unless specifically limited by this Ordinance, an amendment hereto, or a rule and/or regulation of the City approved by a majority of a quorum of the City Council.

C. A Malt Beverage Retail Package Carry out License shall authorize the licensee to purchase, receive, possess, and sell malt beverages at retail and only for consumption off the licensed

premises. The licensee shall purchase only from licensed brewers or licensed distributors.

D. A Malt Beverage Retail Drink License shall authorize the licensee to purchase, receive, possess, and sell malt beverages at retail for consumption on the licensed premises. The licensee shall purchase only from licensed brewers or licensed distributors. Unless the licensee holds a Malt Beverage Retail Package Carry-out License, he shall not sell malt beverages by the package for consumption off the premises. A Malt Beverage Retail Drink License shall only be issued to a business for a location which receives fifty percent (50%) or more of its gross annual income from the sale of food consumed on the premises and has, and maintains, a minimum indoor seating capacity of fifty (50) people at tables.

E. In the event the premises on which an applicant's business is to be conducted is located within two hundred (200) feet of any school, hospital, church, public park, or playground, the City Administrator shall, before granting any license, consider the effect on and from the surrounding area in the event the application was granted. Upon a determination that the granting of the license would probably harm or otherwise adversely affect or be affected by the surrounding area, the City Administrator may deny the application after a hearing held pursuant to Section XIII. B.

F. Distilled Spirits and Wine Retail Package Licenses shall be issued only for premises on which at least seventy-five percent (75%) of the gross revenues are derived from the sale of alcoholic beverages.

V. ISSUANCE OF LICENSES AND PAYMENT OF FEES

Applications for the issuance or renewal of all licenses provided for in this ordinance shall be made to the City Administrator. All applications shall include a complete copy of the application submitted for the corresponding state license together with all other information as may be designated by the City Administrator. All such forms and information shall be previously approved by a majority of a quorum of the City Council. All license fees collected pursuant hereto shall be paid to and collected by the Director of Finance of the City of Russellville, Kentucky.

VI. TERMS OF LICENSE

A. All licenses issued hereunder shall expire on June 30 of each year. The renewal of any alcoholic beverage license shall not be construed to be a waiver or condonation of any violation which occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee therefor.

B. When any person applies for a license authorized to be issued hereunder after July 1 of any year, he 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 July 1,

except that no charge shall be less than one half (1/2) of the yearly fee. No abatement of license fees shall be permitted.

VII. DISPLAY OF LICENSE: LOST OR DESTROYED LICENSE

A. Before commencing or doing any business for the term 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.

B. No licensee shall post the license or permit it to be posted upon premises other than the licensed premises, or upon 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.

C. Whenever a license is lost or destroyed without the fault of the licensee or his agents or employees, a duplicate license shall be issued upon proof of loss satisfactory to the City Administrator and upon payment of a fee of \$1.

VIII. STATE LICENSE REQUIRED

A. No license provided for hereunder shall be issued, renewed, or transferred to any person, firm, or corporation until the person, firm, or corporation shall have obtained the issuance, renewal, or transfer of the state license corresponding

thereto. The state Malt Beverage Retailer's License corresponds to both the City Malt Beverage Retail Package Carry-out License and the City Malt Beverage Retail Drink License. In each instance, the licensed premises covered by the city license must be the same as the licensed premises covered by the corresponding state license.

B. The city license issued to any person, firm, or corporation shall remain valid only so long as the state license corresponding thereto, issued to the person, firm, or corporation, shall be valid. Any revocation, suspension, nonrenewal, or other action which makes the state license null and void shall operate to revoke, suspend, make nonrenewable, and thereby make null and void the city license corresponding thereto for the same period of time. Any city license which is revoked, suspended, not renewed, or so made invalid shall be immediately surrendered to the City Administrator.

IX. HOURS WHEN SALES PERMITTED

A. A licensee may sell alcoholic beverages or do any act authorized by the licensee's license with respect to the sale of alcoholic beverages only during the hours between 6 a.m. and midnight, prevailing time, except that no retail sale shall be made during the hours the polls are open on any election day, or on Sundays or Christmas.

X. CONSENT BY SUBMITTING APPLICATION

Every applicant procuring a license thereby consents to the

entry into the premises of police or other duly authorized representatives of the City or State at all hours, and consents to the inspection and search of the premises, and consents to the removal from said premises of all things and articles there had in violation of City Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.

XI. REGULATORY LICENSE FEE

A. A regulatory license fee is imposed on the gross receipts from retail sales of alcoholic beverages under each license issued under Section IV for the purpose of insuring full reimbursement to the City for the cost of any additional policing, regulatory, or administrative expenses, related to the sale of alcoholic beverage in the City. Said license fee for sales prior to July 1, 1983, shall be five percent (5%) of gross receipts from retail sales of alcoholic beverages. Thereafter, the City Council shall adopt, at the budget adoption for the fiscal year 1983-84, and each year thereafter, such percentage rates as shall be reasonably estimated to insure full reimbursement to the City for the cost of any additional policing, regulatory or administrative expenses, related to the sale of alcoholic beverage in the City. Such regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against such fee shall be allowed in an amount equal to the licenses or fees imposed under Section IV. Such regulatory fee shall be applied annually hereafter.

B. Payment of such fee shall accompany the tax returns approved for such use by the Director of Finance and a majority of a quorum of the City Council and shall be submitted to the city Director of Finance by the 20th day of each month for the preceeding month's sales. The fraction, represented by one (1) divided by the number of months for which the city license was issued, of the fee required under Section IV shall be deducted each month as a credit.

C. Failure to pay such monthly remittance within ten (10) days after the due date shall constitute a violation of this Ordinance.

D. Interest shall run upon any past due payments at the rate of twelve percent (12%) per annum.

E. Every licensee shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the City Administrator and approved by a majority of a quorum of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. Such books and records shall be available at all reasonable times for inspection

by the City administrator, the Director of Finance or any authorized representatives.

XII. ADVERTISING AND SIGN RESTRICTIONS

No signs referring to alcoholic beverages directly or indirectly, visible from the outside, except as that reference may be contained in the name of the business establishment, shall be permitted. No flashing lights or neon lamps shall be used to illuminate signs unless approved by the Beautification Committee of the City of Russellville as promoting the aesthetic quality of the City. The Zoning Ordinance of the City, in particular, but not by way of limitation, as it regards signs, shall apply to all licensed premises.

XIII. VIOLATIONS OF STATE OR FEDERAL LAW OR OF THIS ORDINANCE; REVOCATION AND SUSPENSION OF LICENSE

A. The violation by any licensee of any federal or state statute, law, or regulation, now, heretofore, or hereafter in effect applicable to any licensee relating to the storage, sale, purchase, transporting, or other traffic in alcoholic beverages shall be deemed a violation of this Ordinance. If any clerk, agent, servant, or employee of any licensee shall violate any provision of this Ordinance, or such statute, law, or regulation, the violation shall also be a violation by the licensee.

Any license issued hereunder may be revoked or suspended by the City Administrator if the licensee shall have violated any provision of this Ordinance or any provision of any statute, law, or regulation relating to the storage, sale, purchase, transporting, or

other traffic in alcoholic beverages.

B. Upon receiving information that a violation may have occurred, the City Administrator shall notify the licensee in question by certified mail of the alleged violation and of the time and place of the hearing. The rules of evidence governing civil proceedings in courts in the Commonwealth of Kentucky shall apply to all hearings except as modified or relaxed by the City Administrator. The City Administrator shall issue a written decision based on the evidence.

C. In the course of any one (1) day of operation of a licensed premises, should multiple violations of the Ordinance or other statutes or Ordinances of a public disorder nature, e.g. disturbing the peace, be reported and investigated by the city police department, such re-occurrence shall be reported to the City Administrator by the Chief of Police. The City Administrator shall in the interest of public health, safety, morals and welfare direct the Chief of Police to temporarily suspend the license in question for the remaining hours of the day in question by locking the premises after dispersing the patrons. The temporary suspension shall remain in effect until review of the alleged violations by the City Administrator; such review shall occur on the next business day.

XIV. PENALTY

Any person, firm, or corporation who, acting by himself or through another, directly or indirectly violates any provision of this Ordinance, shall for the first offense be fined not less than \$100 nor more than \$200, or be imprisoned for not more than six months, or both; for the second and each subsequent offense, he shall be fined not less than \$200 nor more than \$500, or imprisoned not more than twelve months, or both. The penalties provided for in this section shall be in addition to the right of the City to revoke or suspend the offender's license. If the offender is a corporation, the principle officer or officers responsible for the violation may be imprisoned.

XV. IMMUNITY

All city officers, employees, agents, and representatives shall be immune from liability in implementing and carrying out this Ordinance and all rules and regulations connected therewith.

XVI. EFFECTIVE DATE

The provisions of this Ordinance shall apply to all licenses issued after the date of passage without regard to the date when application was made for these licenses. This Ordinance shall be effective upon its passage and publication.

XVII. SEVERABILITY

In the event any portion of any provision of this Ordinance is invalid for any reason, such invalidity shall not affect the

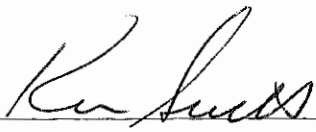
validity of any other portion of any provision.

PASSED FIRST READING, by roll call vote this the 22nd day of March, 1983.

AYES:	NAYS:	ABSENT:	ABSTAINING:
<u>Ken Campbell</u>	_____	_____	_____
<u>Everett Daniel</u>	_____	_____	_____
<u>Gary Woodlee</u>	_____	_____	_____
<u>Billy Ray Parrish</u>	_____	_____	_____
<u>Keith Fruits</u>	_____	_____	_____
<u>Willie Hampton</u>	_____	_____	_____


PASSED SECOND READING, by roll call vote this the 23rd day of March, 1983.

AYES:	NAYS:	ABSENT:	ABSTAINING:
<u>Everett Daniel</u>	<u>None</u>	<u>Keith Fruits</u>	<u>Willie Hampton</u>
<u>Gary Woodlee</u>	_____	_____	_____
<u>Billy Ray Parrish</u>	_____	_____	_____
<u>Ken Campbell</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____



 MAYOR

ATTEST:



 CITY CLERK