

SUMMARY OF ORDINANCE #2011-005

The Title of the Ordinance is the Alcoholic Beverage Control ordinance of the City of Manchester, Kentucky.

An Ordinance related to the manufacturing and trafficking in alcohol beverages within the City of Manchester and providing for the regulation of such activities, the licensing of persons or entities engaging in such manufacturing or trafficking and for the administration and enforcement of this Ordinance.

NARRATIVE SUMMARY OF ORDINANCE #2011-005:

Ordinance #2011-005 does not repeal, amend or replace any ordinance. The ordinance takes effect at midnight 4th day of August, 2011. Ordinance #2011-005.

Ordinance #2011-005 provides for the incorporation of Kentucky state alcoholic beverage laws as set out in KRS 241-244, and together with such state statutes, relates to and regulates all sales of alcoholic beverages within the City of Manchester.

The ordinance establishes the office of the City Alcoholic Beverage Control Administrator and sets out the duties and prerogatives of said office. The ordinance sets out the types of licenses for the manufacture or traffic in alcoholic beverages which may be issued by the City of Manchester. It prescribes the form and process for license application, states requirements and guidelines for consideration in granting licenses, sets out requirements for maintaining licenses and prescribes how and for what cause licenses may be suspended or revoked. The ordinance requires all licensees to keep records and file reports with the City ABC Administrator. The City ABC Administrator may enter the premises and inspect the records in order to determine whether the licensee is in compliance with the law.

The ordinance prescribes the hours during which alcoholic beverages may be sold and contains other conditions, prohibitions and restrictions on licensed premises, including without limitation the prohibition against unauthorized gambling, maintaining police scanners, sales to apparently intoxicated persons, sales to minors.

Except where on ABC license expressly permits on premises consumption of alcohol, no on premises consumption is permitted. Those with appropriate licenses who intend to permit on premises consumption are required to notify the City ABC Administrator of that decision. Licensees who do not intend to permit on premises consumption are required to post conspicuous notice of the prohibition.

The ordinance requires registration and identification tags for all malt beverage kegs and set conditions for patio and outdoor sales of alcoholic beverages. It requires all persons selling or serving alcoholic beverages to receive City approved training.

The ordinance provides for enforcement by the City police and by the City ABC Administrator and set penalties for violation of the ordinance.

**FULL TEXT OF THE SECTIONS THAT IMPOSE
OR AMEND TAXES AND FEES PURSUANT TO THIS ORDINANCE**

**ARTICLE I
APPLICATION FEE:**

Article 1 and Article 2 Sec XII through XXI, inclusive: a nonrefundable application fee of \$50.00 shall be paid with the filing of the application for a city license. If the license is granted, the application fee shall be credited against the initial license fee.

**ARTICLE II
LICENSES; LICENSE FEES; REGULATORY LICENSE FEE;
EXPIRATION OF LICENSE**

Sec. XII .1 For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverage in the City and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in KRS 243.070. The fee for each city license shall be as set out in the following schedule. In the event KRS 243.070 shall hereafter be amended to authorize additional city licenses, the fee for each city license shall be the maximum fee provided in the statute as amended.

Each application shall be accompanied by payment of the full license fee in the amount of \$50.00 for each license applied for hereinunder.

DISTILLED SPIRITS AND WINE LICENSE FEES.

Sec. XIII through Section XXI: The following distilled spirits and wine licenses may be issued by the City, the fees for which shall be:

(1)	Distiller's license, per annum.....	\$500.00
(2)	Rectifier's license, per annum.....	\$3,000.00
(3)	Blender's license per annum.....	\$3,000.00
(4)	Wholesaler's license, per annum....	\$3,000.00
(5)	Retail package license, per annum...	\$600.00
(6)	Retail drink, motel drink, airport drink, restaurant drink and supplemental bar license, per annum.....	\$600.00
(7)	Special temporary liquor license per event.....	\$130.00
(8)	Restaurant wine license per annum.....	
(a)	New applicants.....	\$600.00

	(b) Renewals.....	\$400.00
(9)	Special Sunday sale retail drink license, per Annum.....	\$300.00
(10)	Special temporary wine license, per event....	\$50.00
(11)	Special temporary auction license, per event....	\$200.00
(12)	Nonresident special agent or solicitor's license Per annum.....	\$40.00
(13)	Bottling house or wine storage license, Per annum.....	\$1,000.00
(14)	Souvenir retail liquor license, per annum....	\$1,000.00

SECTION (XIV) MALT BEVERAGE LICENSE FEES:

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

(1)	Brewer's license, per annum.....	\$500.00
(2)	Microbrewery license, per annum.....	\$500.00
(3)	Distributor's license, per annum.....	\$400.00
(4)	Retailer's license, per annum.....	\$200.00
(5)	Special temporary license, per event.....	\$25.00
(6)	Special Sunday malt beverage retailer's license, Per annum.....	\$125.00
(7)	Brew on premises license, per annum.....	\$100.00

SECTION (XV) OTHER LICENSE FEES:

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

(1)	Convention center license, per annum.....	\$2,000.00
(2)	Extended hours supplemental license per annum.	\$2,000.00
(3)	Horse race track license, per annum.....	\$2,000.00
(4)	Caterer's license, per annum.....	\$800.00
(5)	Riverboat license, per annum.....	\$1,200.00
(6)	Automobile race track license, per annum.....	\$2,000.00
(7)	Limited restaurant license or limited golf course License, per annum (includes distilled spirits, wine, And malt beverages) new applicants.....	\$800.00
(8)	Special private club license, per annum.....	\$300.00

SECTION (XVI) CERTAIN SPECIAL LICENSES DEFINED

(1) **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 the license for a specified and limited time, not to exceed thirty (30) days. 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 maybe issued only as set out in KRS 243.290 and is subject to all conditions and regulations provided at the issuance of the license.

- (2) **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.
- (3) **SPECIAL LICENSE REQUIRED FOR SUNDAY SALES:** No licensee shall offer alcoholic beverages for sale any time between 12:00 midnight Saturday and 6:00 a.m. on Monday unless the licensee shall have obtained a special license for Sunday retail sales of alcoholic beverages by the drink.
- (4) Package retail sales of alcoholic beverage on Sunday are expressly excluded hereby.
- (5) A special license for Sunday sales of alcoholic beverages by the drink may be applied for and granted to otherwise qualified applicants for facilities having at least 100 seats and whose retail food sales are at least 50% of the licensee's total retail sales at that facility as proven by the quarterly tax returns required hereinunder.
- (6) A special license for Sunday sales of malt beverages for consumption on premises of beverages purchased on site may be applied for and granted to otherwise qualified applicants if the facility has at least 50 chairs as defined by statute. No beverages may be removed from the site/facility at any time or consumed outside of the premises of the licensee as described in the application for the license.

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.

EXPIRATION OF LICENSE, PRORATION OF FEES:

All city licenses, except temporary licenses, shall begin on May 1st of any year and shall expire on April 30th of the following year. Any licenses issued after November

30th 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.

PAYMENT OF LICENSE FEES, DELIQUENCY:

No licensee shall enter into or begin operating any business for which a license is required by this ordinance until the license fee has been paid in full. The fee for renewal of any license shall be paid with the renewal application. Failure to pay a license fee within ten (10) days after it becomes due shall result in a penalty equal to ten percent (10%) of the license fee. Any licensee failing to pay the fees, including penalties, within ten (10) days after such fees are due may be subject to revocation of license.

SEC. XXIV REFUND OF FEES

Should any licensee under this chapter be prohibited from conducting the licensed business for the full period covered by the license because of any changes that may hereafter be made in the laws of the commonwealth with reference to alcoholic beverages or other cause outside licensee's control, then the city shall refund to licensee the proportionate part of the license fee for the period during which licensee is prevented from carrying on said business if the licensee provides sufficient proof to the City ABC Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrong doing by licensee, or an agent or employee of the licensee.

In the event a violation of this chapter occurs that results in the suspension or revocation of the license, the City shall not be required to refund any portion of the license fee.

SEC. IV DISPOSITION OF FEES:

The City ABC Administrator shall transmit fees upon collection to the City Finance Department to be deposited into the appropriate designated account.

SEC. XLV PENALTIES

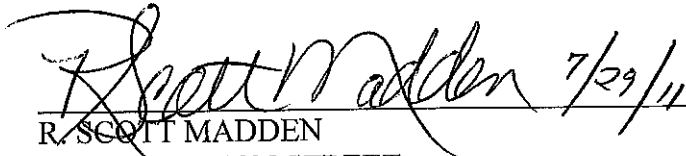
In addition to any criminal prosecution instituted in Clay District Court against an alleged violator, the City ABC Administrator may assess the fines and penalties authorized in KRS 243.480, including the per diem assessments for ongoing violations. Should the fines or penalties assessed by the state change under KRS 243.480, then the fines and penalties under this Article shall be adjusted accordingly to mirror the fines or penalties by state law. Payment of all fines shall be made to the City ABC Administrator who shall transmit said payments to the City Finance Department to be deposited in the appropriate designated account.

Any person, firm or corporation who violates any of the provisions of this Ordinance, for which no other penalty is hereby provided shall for the first offense, be fined not less than Two Hundred Fifty Dollars (\$250.00) and for the second and subsequent violation, he or she shall be fined not more than Five Hundred (\$500.00) or imprisoned in the county jail for not more than six months or both. The penalties provided for in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

If the holder of any license shall fail to pay the regulatory license fee imposed by this Section within ten (10) days of the due date, an automatic penalty of fifty dollars (\$50.00) shall be assessed for the first offense, an automatic penalty of one hundred dollars (\$100.00) shall be assessed on the second offense, and an automatic penalty of two hundred dollars (\$200.00) shall be assessed on the third offense. In addition to the monetary penalty, the MABC may hold a hearing for a second and third offense requiring the licensee to show cause why the license should not be suspended or revoked with full authority to do so upon appropriate findings. The calculation of the number of offenses for the purpose on invoking the above penalties shall be done on a twelve (12) month basis, with the number of offenses being reduced to zero at the beginning of each new license period.

ATTORNEY CERTIFICATION

This Summary was prepared for publication in the Manchester Enterprise by the undersigned, R. Scott Madden, and is certified pursuant to KRS 83A.060.


R. SCOTT MADDEN
109 DICKENSON STREET
MANCHESTER, KENTUCKY 40962
(606) 598-6124 TELEPHONE
(606) 598-6129 FAX