

CITY OF GEORGETOWN, KENTUCKY

ORDINANCE NO. 19 -010

AN ORDINANCE RELATED TO THE MANUFACTURING AND TRAFFICKING IN ALCOHOLIC BEVERAGES WITHIN THE CITY OF GEORGETOWN, AND PROVIDING FOR THE REGULATION OF SUCH ACTIVITIES, AND THE LICENSING OF PERSONS OR ENTITIES ENGAGING IN SUCH MANUFACTURING OR TRAFFICKING.

SUMMARY

1. Amends certain Articles of Chapter 2 of the Georgetown Code of Ordinances to provide for consistency with the Kentucky General Assembly's enactment of HB 183, HB 100, and HB 319.
2. Adds classes A and B to the already established Rectifier's License and provides for a Special Temporary Auction License, per event.
3. Defines "organized civic or sponsored event" for Special Temporary Licenses authorized under KRS 243.260.
4. Provides for repeal of inconsistent ordinances, severability of provisions and an effective date upon passage and publication.

The full text of Ordinance 19-010 is available for examination in the City Clerk's Office, 100 North Court Street, Georgetown, Kentucky 40324 or at www.georgetownky.gov.

INTRODUCED AND PUBLICLY READ FIRST TIME: April 8, 2019

PUBLICLY READ SECOND TIME AND PASSED: April 22, 2019

APPROVED: _____

Tom Prather, Mayor

ATTEST: _____

Tracie Hoffman, City Clerk

I, Devon E. Golden, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 100 North Court Street, Georgetown, Kentucky 40324. I further certify the foregoing Summary of Ordinance 19-010, of the City of Georgetown, Kentucky, was prepared in accordance with the requirements of KRS 83A.060(9) and is a true and accurate summary of the contents of said Ordinance.



Devon E. Golden

ORDINANCE 19 - 010

AN ORDINANCE RELATED TO THE MANUFACTURING AND TRAFFICKING IN ALCOHOLIC BEVERAGES WITHIN THE CITY OF GEORGETOWN, AND PROVIDING FOR THE REGULATION OF SUCH ACTIVITIES, AND THE LICENSING OF PERSONS OR ENTITIES ENGAGING IN SUCH MANUFACTURING OR TRAFFICKING.

Sponsors: Council Members Marvin Thompson and Todd Stone

WHEREAS, The Kentucky General Assembly enacted HB 183, HB 100, and HB 319 during its 2017 legislative session; and,

WHEREAS, these laws contain comprehensive reforms to the Commonwealth's alcoholic beverage laws; and,

WHEREAS, the City of Georgetown is required to amend its ordinance to comply with these changes and to make use of the provisions of HB 183, HB 100, and HB 319; and,

WHEREAS, the City desires to modify certain other terms of its alcoholic beverage ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF GEORGETOWN, KENTUCKY:

SECTION ONE

Chapter 2.7, Article II, section 2.7-11 of the Code of Ordinances is amended as follows:

Sec. 2.7-11. [In general]

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 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.

(1) *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, Class A , per annum	3,000.00
c.	<u>Rectifier's license, Class B, per annum</u>	960.00
e.	d. Wholesaler's distilled spirits and wine license, per annum	3,000.00
d.	e. Quota retail package license, per annum	600.00
e.	f. Quota retail drink license, per annum	600.00
f.	g. Special temporary license, per event	100.00
g.	h. Nonquota type 1 retail drink license (includes distilled spirits, wine, and malt beverages)	2,000.00
h.	i. Nonquota type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum (restaurant drink license)	800.00
i.	j. Nonquota type 3 retail drink license (includes distilled spirits, wine and malt beverages) (private clubs), <u>per annum</u>	300.00
j.	k. Distilled spirits and wine temporary auction, per event	200.00
k.	l. Special Sunday sale retail drink license, per annum	300.00
	<u>m. Special temporary auction license, per event</u>	100.00
l.	n. Bottling house or bottling house storage license, per annum	1,000.00

(2) *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.	Malt beverage distributor's license, per annum	400.00
d.	Nonquota retailer 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

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.

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).

(3) *Restaurant drink license.*

- ~~a. The City Council hereby determines, acknowledges and declares that an economic hardship exists within the City of Georgetown; that the sale of alcoholic beverages by the drink could aid economic growth; and, that there is a need for restaurant drink licenses to be issued pursuant to KRS 242.185 (1) (5);~~
- ~~b. A retail drink licensee 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; and~~
- ~~e. a. The gross receipts of the restaurant or the dining facility from the sale of food for consumption on the premises is reasonably estimated to be not less than fifty percent (50%) of the total food and beverage receipts of such restaurant or dining facility for the license period.~~

(4) *Other license fees.* The following kinds of other licenses may be issued by the City, the fees for which shall be:

- | | |
|---|----------|
| a. Extended hours supplemental license, per annum | \$800.00 |
| b. Caterer's license, per annum | 800.00 |
| c. Limited restaurant license or limited golf course license, per annum
(includes distilled spirits, wine, and malt beverages) | 800.00 |

SECTION TWO

Chapter 2.7, Article II, section 2.7-12 is amended as follows:

Sec. 2.7-12. Certain special licenses defined.

(a) Special temporary licenses. A special temporary license for a qualifying event 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 licensee and an NQ4 retail malt beverage drink licensee at designated premises 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 an NQ4 retail malt beverage license, such organization may be issued a special temporary 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.

(1) “Organized civic or sponsored event,” as referred to in KRS 243.260, shall be defined as follows: a public gathering of broad appeal where citizens are invited and encouraged to attend without significant cost of admission that is sponsored or acknowledged by the city or county government in which the event is conducted, including any convention, conference, celebration, pageant, parade, festival, fair, public display, commemoration, or other type of public assemblage conducted for the benefit and enjoyment of the general public.

(b) Special license required for Sunday sales. No retail drink licensee shall offer alcoholic beverages for sale on Sunday unless the licensee shall have obtained a special license for Sunday sales.

Chapter 2.7, Article II, section 2.7-16 is amended as follows:

(a) Pursuant to KRS 243.075 and KRS 242.185(5), there is hereby imposed a regulatory license fee on the gross receipts of sale of alcoholic beverages of each license issued by the administrator. The regulatory license fee shall be five (5) percent 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 seven (7) percent of gross sales. The

regulatory license fee shall be seven (7) percent on gross retail sales of package malt beverages. ~~Thereafter,~~ **Hereafter,** the city council shall adopt at the budget adoption for each subsequent fiscal year, such annual rate for the regulatory license fee **that will generate revenue that does not exceed the total of the reasonable expenses actually incurred by the city in the immediately previous fiscal year** ~~as shall be reasonably estimated to ensure full reimbursement to the city for the cost of any additional~~ policing, regulatory, or administrative expense ~~related to~~ **as a result of** the sale of alcoholic beverages in the city. Should the city fail to address the regulatory license fee in any budget, then the regulatory license fee shall remain at the level at which it was last fixed until such time as the city council shall adjust the fee.

- (b) Payment of such regulatory fee shall be remitted to the administrator and shall be held in a separate account maintained for the purpose of fully reimbursing the city for the estimated cost of any additional policing, regulatory or administrative expense related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, except that a credit against a regulatory license fee in the city shall be allowed in an amount equal to any license fee imposed by the city pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the license fee return approved for such use by the city council. The return and payment are due no later than by the end of the month immediately following each calendar quarter.
- (c) Failure to pay such quarterly remittance within ten (10) days of the due date constitutes a violation and will subject licensee to suspension or revocation.
- (d) Penalty for failure to file a return and pay quarterly remittance by the due date is five (5) percent of the tax for each ninety (90) days or fraction thereof. The total late filing penalty shall not exceed twenty-five (25) percent of the fee; provided, however, that in no case shall the penalty be less than ten dollars (\$10.00).
- (e) Interest at the rate of eight (8) percent per annum will apply to any late payments.

SECTION THREE

Chapter 2.7, Article III, section 2.7-21 is amended as follows:

Sec. 2.7-21. [In general]

- (a) The duties of the city alcoholic beverage control administrator [the “administrator”] are assigned to the city clerk-treasurer.
- (b) The functions of the administrator shall be the same with respect to the city licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky [“ABC board”] with respect to state licenses and regulations, except that no amendment to these regulations proposed by the administrator may be less stringent than the statutes relating to alcoholic beverage control, or than regulations of the ABC board. No regulation of the administrator shall become effective until the city council has first appropriately approved it.
- (c) No person shall be an administrator, an investigator or an employee of the city under the supervision of the administrator, who would be disqualified to be a member of the ABC Board under KRS 241.100.
- (d) The administrator shall have all authority as authorized under KRS chs. 241-244. The administrator, and any administrator’s investigators, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.
- (e) Should the administrator at any time have reasonable grounds to believe that any applicant, licensee, employee of a licensee, or any stockholder, agent or employee of a licensed corporation, LLC or other business organization, has a criminal record, he or she shall have the authority to require such person to appear in person at the Georgetown Police Department for the purpose of having his or her fingerprints taken.
- (f) The administrator, before entering upon his or her duties as such, shall take the oath as prescribed in Section 228 of the Constitution, ~~and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000.00). The administrator may require any employee under the administrator’s supervision to execute a similar bond in such penal sum as the administrator deems necessary.~~

SECTION FOUR

Chapter 2.7, Article III, section 2.7-22 is amended as follows:

Sec. 2.7-22. Appeals.

- (a) Appeals from the orders of the administrator may be taken to the state ABC board by filing with the board, within thirty (30) days of the written decision or order being mailed or delivered by personal service, a certified copy of the orders of the administrator. Notices of appeal shall identify the administrator by name, shall identify the decision or order, or part thereof, being appealed, shall contain a certificate that a copy of the notice has been served on the administrator and shall include a copy of the decision or order being appealed. The board shall hear matters at issue as upon an original proceeding. Appeals from orders of the administrator shall be governed by KRS ch. 13B.
- (b) When any decision of the administrator shall have been appealed, or when a protest has been lodged against an application for any license within the city, and the ABC board shall have made a decision regarding such appeal or protested application, the administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by the final order of the ABC board. As provided by law, and as used herein, no order of the ABC board is final until all appeals or appeal times shall have been exhausted. A "final order" of the ABC board is the order entered by said board, unless an appeal is taken from the board's order, in which case the "final order" is the order entered by the board upon direction from the reviewing court of last resort in the final order of said reviewing court.

SECTION FIVE

Chapter 2.7, Article IV, section 2.7-31 is amended as follows:

Sec. 2.7-31. Advertisement.

- (a) All persons, except an applicant for the same license for the same premises, or an applicant for an out-of-state malt beverage supplier's license, limited out-of-state malt beverage supplier's license, out-of-state distilled spirits and wine supplier's license, limited out-of-state distilled spirits and wine supplier's license, supplemental bar license, extended hours supplemental license, a special agent or solicitor's license, a special nonbeverage alcohol license, a transporter's license, a special Sunday drink license, a hotel in-room license, a sampling license, or a special temporary drink license shall, before an application for a license shall be considered, ~~the applicant must~~ publish a notice of its intent to apply for an alcoholic beverage license in a newspaper

meeting the requirements of KRS ch. 424.

- (b) The advertisement shall state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership of the LLC if the applicant is an LLC, as well as the name of the business and its address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the license is sought, and the type of license for which application is made.
- (c) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170.

SECTION SIX

Chapter 2.7, Article IV, section 2.7-32 is amended as follows:

Sec. 2.7-32. Application.

- (a) All licenses granted under this ordinance shall be approved by the Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the ABC Board and the City, as amended and supplemented from time to time.
- (b) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as required by the Kentucky Revised Statutes, the ABC Board and the City, including as follows:
 - (1) Name and address;
 - (2) Nature of interest;
 - (3) Whether or not a citizen of the United States;
 - (4) Date of birth;
 - (5) Date residence was established in Kentucky, if a resident of Kentucky. If Georgetown resident indicate when residence was established;
 - (6) Whether or not he or she has any interest in any other license or LLC, corporation, partnership or other business organization holding a license under this ordinance;
 - (7) Extent of stock or company ownership;
 - (8) Whether or not he or she has any interest in any license or LLC, corporation,

partnership or other business organization holding a license in any other state or province.

- (c) Each application shall be accompanied by a certified check, cash or a postal or express money order for the amount of the license fee.
- (d) In addition to the above specified information, the applicant shall file with the application responses to any additional questions as may be posed or prescribed by the Administrator. The City Council has adopted a statement of guidelines and priorities for the issuance of licenses and, in order to determine the extent to which applications may further or impede the objectives of those guidelines, the Council may, by municipal order, adopt a questionnaire to be submitted to applicants for licenses. Upon adoption of the questionnaire, it shall become a part of the application process. The questionnaire may be altered, expanded, supplemented or replaced by municipal order of the Council hereafter. In addition to the information contained in the application and any City ordered questionnaire, the Administrator may require such other information as the Administrator may in his/her discretion deem desirable, reasonable or appropriate to the consideration of the application.
- (e) **The Administrator may take the following final actions on license applications: (1) approve license application (i.e. conditional approvals and letters of intent); (2) issue licenses; or (3) deny licenses.**
- (f) **Should the Administrator deny a license application, he or she shall notify the applicant in writing of the denial and cite the reasons for said denial, via registered or certified mail, as provided by KRS 243.470.**

SECTION SEVEN

Chapter 2.7, ARTICLE IV, Section 2.7-34 is amended as follows:

Sec. 2.7-34. Form of license.

All city licenses shall be in such form as may be prescribed by the city council and shall contain:

- (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, or otherwise, of the licensed premises;

- ~~(5)~~ The name and address of the owner of the building in which the licensed premises are located;
- ~~(6)~~ **(5)** The expiration date of the license;
- ~~(7)~~ **(6)** A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

SECTION EIGHT

Chapter 2.7, ARTICLE V, Section 2.7-52 is amended as follows:

Sec. 2.7-52. Conditions, prohibitions and restrictions.

(a) No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(b) It shall be unlawful for any licensee licensed under this ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in Scott County as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or the Administrator, or his designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(c) The licensee shall be responsible for maintaining security on his premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(d) It shall be unlawful for the licensee under this ordinance who sells alcoholic beverages of any kind to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of alcoholic beverages nor shall any licensee give away any alcoholic beverage in any quantity for less than a full monetary consideration.

(e) No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee sell alcoholic beverages to any person who is actually or apparently under the influence of alcoholic beverages, or known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period. No licensee shall permit any person who is actually or apparently under the influence of alcoholic beverages to remain on the licensed premises. As used herein, whether a person is actually or apparently under the influence of alcoholic beverages shall be determined by the licensee or server with specific reference to the principles and guidelines established in mandatory alcohol server training as to the signs of alcohol intoxication.

(f) The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age. The licensee shall check all identification to ascertain that every person who appears to be under the age of thirty attempting to purchase or consume alcoholic beverages is at least 21 years of age.

(g) The licensee shall display at all times in a prominent place a sign at least 8" x 11" in 30 point or larger type which states as follows:

Persons under the age of twenty-one (21) are subject to a fine of up to One Hundred Dollars (\$100.00) if they:

- (1) Enter licensed premises to buy, or have served to them, alcoholic beverages.*
- (2) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.*
- (3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.*

(h) The licensee, before commencing any business for which a license has been issued, shall post and display at all times 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. The licensee shall not at any time post the license on 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.

(i) With the exception of holders of special temporary licenses, all licensees The licensee shall post in a prominent place easily seen by patrons a printed sign at least ~~eleven (11) inches by fourteen (14) inches~~ **eight and a half inches by eleven inches (8.5" x 11")** in size, with

letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender-neutral language supplied by the Cabinet for Health Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this subsection shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). KRS 243.895.

(j) No wholesaler or distributor shall sell any alcoholic beverages to any person in the City for any consideration except under the usual credit or cash terms of the wholesaler or distributor at or before the time of delivery. Nor shall any retail licensee sell to a purchaser for any consideration except for cash at time of purchase.

(k) No licensee shall knowingly employ in connection with his or her business any person who:

- (1) Has been convicted of any felony within the last two (2) years;
- (2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years;
- (3) Is under the age of twenty (20) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute **(exception: licensees may permit employees of age eighteen (18) or greater to sell packaged malt beverages at a premises licensed only by a nonquota retail malt beverage package license, so long as said employee is under the direct supervision a person aged twenty (20) years or greater)**;
- (4) Within two (2) years prior to the date of his or her employment, has had any City license under this Ordinance revoked for cause.

(l) Licensees shall not offer reduced drink specials (e.g. two-for-one, happy hours) after the hour of 11:00 p.m. until closing.

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

(n) 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 premise. No licensee shall permit explicit sexual

activity, whether actual or simulated, upon any licensed premises. No licensee shall sponsor or permit wet t-shirt or wet clothing contests, lingerie fashion shows, mud wrestling, jello 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. No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premise in the City.

(o) No license shall be issued for any premises to operate a vehicle "drive-through" outlet for the sale of alcoholic beverages, nor shall any person or licensee operate or permit such a vehicle drive-through outlet. This prohibition shall not apply to a drive-up window at any premises licensed for retail package liquor, wine or malt beverage, including retail beer, where the primary sales area is arranged for and utilized by persons entering the premises on foot and manually carrying out the products purchased therein.

Violation of this Article shall subject the licensee to penalties provided in this chapter and shall be cause for revocation of license.

SECTION NINE

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 TEN

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION ELEVEN

This Ordinance shall be in full force and effect upon passage and publication.

PUBLICLY INTRODUCED AND READ FIRST TIME: April 8, 2019

PUBLICLY READ SECOND TIME AND PASSED: April 22, 2019

APPROVED:



Tom Prather, Mayor

ATTEST:

Tracie Hoffman, City Clerk