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ORDINANCE NO. 410-05F-2022

AN ORDINANCE OF THE CITY OF VANCEBURG, KENTUCKY, AMENDING ORDINANCE NO. 410-05E TO PERMIT THE SALE OF ALCOHOLIC BEVERAGES ON SUNDAYS AND FOR THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES, MANUFACTURERING AND SALES IN COMPLIANCE WITH THE KENTUCKY REVISED STATUTES.

WHEREAS, the City of Vanceburg, Kentucky, has determined that neighboring counties, cities, and states permit the sale of alcohol on Sundays; and

WHEREAS, this places the businesses of the City of Vanceburg at a competitive disadvantage;

NOW THEREFORE BE IT ORDAINED by the City Council of Vanceburg, Kentucky, as follows:

SECTION 1:

**(4) OTHER LICENSE FEES:**

**(A) Distilled spirit and wine licenses:**

- (1) Wholesaler's distilled spirits and wine license, per annum.....\$3,000.00
- (2) Distilled spirits and wine retail package license, per annum.....\$600.00
- (3) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
  - New Applicants..... \$600.00
  - Applicants for renewal.....\$400.00
- (4) Distilled spirits and wine special temporary liquor license, per event.....\$100.00
- (5) Special temporary wine license, per event.....\$50.00
- (6) Distilled spirits and wine special temporary auction license, per event.....\$200.00
- (7) Special private club license, per annum.....\$300.00
- (8) Nonresident special agent or solicitor's license, per annum.....\$40.00
- (9) Restaurant wine license, per annum:

New applicants.....	\$600.00
Applicants for renewal.....	\$400.00
(10) Extended hours supplemental license, per annum.....	<del>\$50.00</del> <u>\$0.00</u>

**(B) Caterer’s license:**

Caterers may be issued a caterer’s license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is open to the public and which does not have a retail packages liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer’s license as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer’s license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer’s license) must also obtain a City business license. The annual City fee for a caterer’s supplemental license for malt beverages by the drink shall be \$150.00 and for renewal, the fee shall be \$75.00. The annual City fee for a caterer’s supplemental license for distilled spirits and wine by the drink shall be \$200.00, and for renewal the fee shall be \$100.00.

**(C) Malt beverage licenses:**

(1) Brewer’s license, per annum.....	\$500.00
(2) Microbrewery license, per annum.....	\$500.00
(3) Malt beverage distributor’s license, per annum.....	\$400.00
(4) Retail malt beverage license, per annum.....	\$200.00
(5) Special temporary retail malt beverage license, per event.....	\$25.00
(6) Malt beverage brew-on-premises license, per annum.....	\$100.00
(7) Extended hours supplemental license, per annum.....	<del>\$50.00</del> <u>\$0.00</u>

**SECTION 2:**

**SEC.4.01 HOURS OF SALE.**

~~(C) Extended Sunday hours for private clubs. The City hereby authorizes private clubs located within the City to sell distilled spirits, wine, or malt beverages between the hours of 1:00 p.m. and 10:00 p.m., in accordance with KRS 243.050 and KRS 244.290~~

(C) Any person or business holding a license for any sale of distilled spirits, wine, and/or malt beverages by the drink sales or packaged sales, shall be permitted to sell or dispense distilled spirits, wine, and/or malt beverages on Sunday after the hours of 6:00 a.m. to 1:00 a.m. In the event that the Kentucky Revised Statutes shall be modified to change the hours of Sunday sales, either to reduce or enhance them, this Ordinance shall automatically be modified to confirm to the statutes.

SECTION 3: That all ordinances in conflict herewith are specifically hereby repealed to the extent of said conflict only.

SECTION 4: That each section and each sentence of this ordinance is enacted separately and the invalidity and/or unconstitutionality of any one particular sentence and/or section shall not affect the validity and/or constitutionality of any other sentence and/or section.

SECTION 5: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.


  
\_\_\_\_\_  
HON. DANE BLANKENSHIP, MAYOR  
CITY OF VANCEBURG, KENTUCKY

ATTEST:

  
\_\_\_\_\_  
CITY CLERK-TREASURER

FIRST READING: 8/11/22

SECOND READING: 9/12/22

  
\_\_\_\_\_  
PREPARED BY:  
CITY ATTORNEY, R. STEPHEN MCGINNIS

**SUMMARY OF  
CITY OF VANCEBURG, KENTUCKY  
ORDINANCE NO. 410.05E**

**ALCOHOLIC BEVERAGE CONTROL ORDINANCE,  
AS AMENDED OCTOBER 15, 2018**

Ordinance No. 410.05E, entitled "Alcoholic Beverage Control Ordinance" repeals and replaces prior Ordinance No. 410.05D and sets forth the regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales in the City of Vanceburg; it adopts all applicable and required Kentucky Revised Statutes, including but not limited to KRS Chapters 241 through 244; it provides that all licenses issued by the City of Vanceburg shall begin on July 1 and shall expire on June 30 of the following year, to bring the Ordinance into compliance with KRS 243.090; it provides for administration and control of the manufacture and sales of alcoholic beverages within the City of Vanceburg; it provides for extended hours on Sundays for the retail sale of distilled spirits, wine, and malt beverages in private clubs only from 1:00 p.m. to 10:00 p.m.; it sets forth the prohibitions, restrictions, and regulations concerning alcoholic beverage manufacture and sales; sets forth the enforcement procedures and penalties for the provisions of the Ordinance; sets the salary for the ABC Administrator at \$750.00 per month; and provides the regulatory license fee and other license fees established under the Ordinance, the full text of which is set forth below, pursuant to KRS 83A.060(9):

**Sec. 3.02      LICENSE FEES**

**(1) PERMITTED LICENSES:** All licenses permitted under Kentucky law for a city shall be allowed and all licenses granted under this chapter shall be approved and issued by the City ABC Administrator.

**(2) PLACE OF FEE PAYMENT:** All fees that are imposed by KRS 243.070 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any City of Vanceburg licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of

Vanceburg ABC Administrator and the fees shall be paid when application for a license is made:

**(3) REGULATORY LICENSE FEE.**

(A) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee upon the gross receipts of each and every person or entity licensed by the City ABC Administrator. The initial regulatory license fee shall be 2.5% of gross sales of alcoholic beverages.

(B) Payment of such regulatory fees shall be remitted to the City ABC Administrator and shall be held in a separate account maintained for the purposes of fully reimbursing the city for any estimated costs of any policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees or license permitted by law; except that, a credit against a regulatory license fee in the city shall be allowed in any amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the tax returns approved for such use by the City Council. These returns and payments 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 days of the due date constitutes a violation and subjects licensee to suspension or revocation.

(D) Penalty for failure to file a return and pay quarterly remittance by the due date is 5% of the tax for each 90 days or fraction thereof. The total late filing penalty shall not exceed 25% of the tax; provided, however, that, in no case shall the penalty be less than \$10.

(E) Interest at the rate of 8% per annum will apply to any late payments.

(F) Annually, effective July 1 of each year commencing in 2018, the City Council shall review and establish the regulatory license fee for the ensuing year so as to conform to the requirements of this ordinance and KRS 243.075.

Prior to establishing the subsequent regulatory license fee, the Mayor shall cause the city's auditor to audit the regulatory license fee account to insure compliance with KRS 243.075, and in conjunction with the City Clerk, to recommend, based upon the experience of the prior fiscal year, a fee rate for the ensuing year.

The Auditor shall report his findings to the City Council and in addition to the regulatory license fee, recommend any action he deems necessary to insure compliance with KRS 243.075.

**(4) OTHER LICENSE FEES:**

**(A) Distilled spirit and wine licenses:**

(1) Wholesaler's distilled spirits and wine license, per annum.....\$3,000.00

(2) Distilled spirits and wine retail package license, per annum.....\$600.00

- (3) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (4) Distilled spirits and wine special temporary liquor license, per event.....\$100.00
- (5) Special temporary wine license, per event.....\$50.00
- (6) Distilled spirits and wine special temporary auction license, per event.....\$200.00
- (7) Special private club license, per annum.....\$300.00
- (8) Nonresident special agent or solicitor’s license, per annum.....\$40.00
- (9) Restaurant wine license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (10) Extended hours supplemental license, per annum..... \$50.00

**(B) Caterer’s license:**

Caterers may be issued a caterer’s license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer’s license as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer’s license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer’s license) must also obtain a City business license. The annual City fee for a caterer’s supplemental license for malt beverages by the drink shall be \$150.00 and for renewal, the fee shall be \$75.00. The annual City fee for a caterer’s supplemental license for distilled spirits and wine by the drink shall be \$200.00, and for renewal the fee shall be \$100.00.


**(C) Malt beverage licenses:**


- (1) Brewer’s license, per annum.....\$500.00

- (2) Microbrewery license, per annum.....\$500.00
- (3) Malt beverage distributor's license, per annum.....\$400.00
- (4) Retail malt beverage license, per annum.....\$200.00
- (5) Special temporary retail malt beverage license, per event.....\$25.00
- (6) Malt beverage brew-on-premises license, per annum.....\$100.00
- (7) Extended hours supplemental license, per annum..... \$50.00

This Ordinance is effective upon publication of this Summary Notice.

Prepared By:

  
\_\_\_\_\_  
LLOYD E. SPEAR, City Attorney  
City of Vanceburg

  
\_\_\_\_\_  
Matt Ginn, Mayor  
City of Vanceburg

Published: October 23rd, 2018

**CITY OF VANCEBURG, KENTUCKY**

**ORDINANCE NO. 410.05E**

AN ORDINANCE OF THE CITY OF VANCEBURG, KENTUCKY REPEALING PRIOR ORDINANCE NO. 410.05D AND ADOPTING THE FOLLOWING SET OF REGULATIONS AND REQUIREMENTS FOR ALCOHOL BEVERAGE CONTROL, HEREINAFTER TO BE KNOWN AS THE CITY OF VANCEBURG'S "ALCOHOLIC BEVERAGE CONTROL ORDINANCE"; AND FURTHER ADOPTING ALL APPLICABLE AND REQUIRED KENTUCKY REVISED STATUTES, INCLUDING BUT NOT LIMITED TO KRS CHAPTERS 241 THROUGH 244:

WHEREAS, THE CITY OF VANCEBURG, BY AND THROUGH A MAJORITY OF REGISTERED VOTERS, NOW PERMITS THE PRESENCE OF ALCOHOLIC BEVERAGE MANUFACTURING AND SALES WITHIN THE CORPORATE LIMITS OF THE CITY OF VANCEBURG SO LONG AS SUCH IS DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAW; AND

WHEREAS, THE CITY OF VANCEBURG THEREFORE MUST ESTABLISH UNIFORM REGULATIONS AND REQUIREMENTS FOR THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES, MANUFACTURE AND SALES PURSUANT TO AUTHORIZATION UNDER KRS CHAPTERS 241 THROUGH 244;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF VANCEBURG, KENTUCKY, THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

**Chapter 410.00 ALCOHOLIC BEVERAGE CONTROL**

**Chapter 410 of the Codified Ordinances of the City of Vanceburg is hereby repealed and replaced in its entirety as follows:**

**Sec. 1.01      SHORT TITLE**

This Ordinance shall be known and may be cited as the Alcoholic Beverage Control Ordinance of the City of Vanceburg.

**Sec. 1.02      PURPOSE**

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.

**Sec. 1.03      DEFINITIONS**

As used in this chapter, unless the context clearly indicates or requires a different meaning, the

words and terms defined in KRS 241.010 shall apply.

**Sec. 1.04 INCORPORATION OF STATE LAW**

(A) The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapters 241, 242, 243, and 244 pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the alcoholic beverage control law of the City, except as otherwise lawfully provided herein.

(B) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and regulations of the state applicable thereto. Penalty, see Section 5.00.

**Sec 1.05 SCOPE OF COVERAGE**

(A) This chapter shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine where the context permits such applications.

(B) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee, or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinances of the city or of any other statutes of the state relating to violations to alcoholic beverages.

**Chapter 2.00 ADMINISTRATION AND CONTROL**

**Sec. 2.01 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR**

As provided by KRS 241.160, the City of Vanceburg, in which alcoholic beverages are permitted, shall have City Alcoholic Beverage Control (ABC) Administrator. The duties of the City ABC Administrator shall be assigned to the office of the Mayor. The City ABC Administrator may recommend regulations as may be necessary to implement this chapter; any such regulations shall be in writing and shall be presented to the City Council for approval. The Mayor can initially assume the responsibility of the City ABC Administrator; however he/she may designate a person to the position. The City Council establishes the salary of the City ABC Administrator at \$750.00 per month.

**Sec. 2.02 OATH AND BOND OF LOCAL ABC ADMINISTRATOR AND EMPLOYEES**

(A) The City ABC Administrator, before entering upon his duties as such, shall take the oath prescribed in KRS 241.180, and shall execute a bond with a good standing corporate surety in the amount of not less than one thousand dollars (\$1,000.00).

(B) The City ABC Administrator may require any city employee under his supervision to

execute a similar bond in such amount, as he deems necessary.

### **Sec. 2.03      FUNCTIONS, DUTIES, AND POWERS**

(A) The functions of the City ABC Administrator shall be the same with respect to the city license and regulations, as the functions of the Kentucky Alcoholic Beverage Control Board (“Board”) with respect to state licenses and regulations of the ABC Administrator, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until the City Council has first appropriately approved it.

(B) The City ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of city licenses as the State Alcoholic Beverage Control Board has with respect to state licenses under KRS 241.060. The City ABC Administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

### **Sec. 2.04      POLICE POWER**

The City ABC Administrator and his designee shall have the full police powers of law enforcement officers, and their jurisdiction shall be co-extensive with the boundaries of the City. They, along with the City of Vanceburg law enforcement officers, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked, without first obtaining a search warrant. City law enforcement officers shall have full police powers while performing any such inspections.

### **Sec. 2.05      RIGHT OF INSPECTION**

The City ABC Administrator and his designee shall have available at all reasonable times for their inspection all books and records required to be maintained by licensees under KRS 244.150 and the City ABC Administrator shall receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

### **Sec. 2.06      APPEALS FROM CITY ABC ADMINISTRATOR**

Appeals from the order of the City ABC Administrator may be taken to the state Alcoholic Beverage Control Board by filing with the board, within thirty (30) days, a certified copy of the orders of the City ABC Administrator. The board shall hear matters at issue as an original proceeding.

## **Chapter 3.00      LICENSE AND TAXES**

### **Sec. 3.01      LICENSE REQUIRED FOR SALE**

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt

beverage, or distilled spirits, or wine, nor manufacture or transport any alcoholic or malt beverage, or distilled spirits, or wine in the City unless he shall first procure and have issued to him a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter.

### **Sec. 3.02 LICENSE FEES**

**(1) PERMITTED LICENSES:** All licenses permitted under Kentucky law for a city shall be allowed and all licenses granted under this chapter shall be approved and issued by the City ABC Administrator.

**(2) PLACE OF FEE PAYMENT:** All fees that are imposed by KRS 243.070 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any City of Vanceburg licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of Vanceburg ABC Administrator and the fees shall be paid when application for a license is made:

#### **(3) REGULATORY LICENSE FEE.**

(A) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee upon the gross receipts of each and every person or entity licensed by the City ABC Administrator. The initial regulatory license fee shall be 2.5% of gross sales of alcoholic beverages.

(B) Payment of such regulatory fees shall be remitted to the City ABC Administrator and shall be held in a separate account maintained for the purposes of fully reimbursing the city for any estimated costs of any policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees or license permitted by law; except that, a credit against a regulatory license fee in the city shall be allowed in any amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the tax returns approved for such use by the City Council. These returns and payments 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 days of the due date constitutes a violation and subject's licensee to suspension or revocation.

(D) Penalty for failure to file a return and pay quarterly remittance by the due date is 5% of the tax for each 90 days or fraction thereof. The total late filing penalty shall not exceed 25% of the tax; provided, however, that, in no case shall the penalty be less than \$10.

(E) Interest at the rate of 8% per annum will apply to any late payments.

(F) Annually, effective July 1 of each year commencing in 2018, the City Council shall review and establish the regulatory license fee for the ensuing year so as to conform to the requirements of this ordinance and KRS 243.075.

Prior to establishing the subsequent regulatory license fee, the Mayor shall cause the city's auditor to audit the regulatory license fee account to insure compliance with KRS 243.075, and in conjunction with the City Clerk, to recommend, based upon the experience of the prior fiscal year, a fee rate for the ensuing year.

The Auditor shall report his findings to the City Council and in addition to the regulatory license fee, recommend any action he deems necessary to insure compliance with KRS 243.075.

**(4) OTHER LICENSE FEES:**

**(A) Distilled spirit and wine licenses:**

- (1) Wholesaler's distilled spirits and wine license, per annum.....\$3,000.00
- (2) Distilled spirits and wine retail package license, per annum.....\$600.00
- (3) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (4) Distilled spirits and wine special temporary liquor license, per event.....\$100.00
- (5) Special temporary wine license, per event..... \$50.00
- (6) Distilled spirits and wine special temporary auction license, per event.....\$200.00
- (7) Special private club license, per annum.....\$300.00
- (8) Nonresident special agent or solicitor's license, per annum.....\$40.00
- (9) Restaurant wine license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (10) Extended hours supplemental license, per annum..... \$50.00

**(B) Caterer's license:**

Caterers may be issued a caterer's license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is

open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer's license as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer's license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer's license) must also obtain a City business license. The annual City fee for a caterer's supplemental license for malt beverages by the drink shall be \$150.00 and for renewal, the fee shall be \$75.00. The annual City fee for a caterer's supplemental license for distilled spirits and wine by the drink shall be \$200.00, and for renewal the fee shall be \$100.00.

**(C) Malt beverage licenses:**

- (1) Brewer's license, per annum.....\$500.00
- (2) Microbrewery license, per annum.....\$500.00
- (3) Malt beverage distributor's license, per annum.....\$400.00
- (4) Retail malt beverage license, per annum.....\$200.00
- (5) Special temporary retail malt beverage license, per event.....\$25.00
- (6) Malt beverage brew-on-premises license, per annum.....\$100.00

**Sec 3.03 DATE LICENSES EXPIRE; PRORATION**

All licenses issued by the City shall be valid for a period of no more than one year. All licenses shall expire on June 30 of each year. Applications for renewal are to be filed with the City at least fifteen (15) days prior to expiration.

When any person applies for a new license he shall be charged 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 (6) months remain before the license is due to be renewed. In the event any licensee shall cease doing business for any reason, no refund of the City license fee shall be granted.

**Sec 3.04 PERSONS WHO MAY NOT BE LICENSED**

A person shall not become a licensee under this chapter for any of the reasons stated in KRS 243.100.

**Sec 3.05 PREMISES THAT MAY NOT BE LICENSED FOR SALES AT RETAIL**

No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in the possession of the premises under

a written lease or a permit for no less than the license period.

**Sec 3.06            BUSINESSES AUTHORIZED BY RETAIL DRINK LICENSE**

A limited restaurant alcoholic beverage by the drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers.

**Sec 3.07            PUBLIC NOTICE OF INTENT TO APPLY FOR LICENSE**

Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for a supplemental bar license shall before applying for a license advertise, by publication in the Lewis County Herald, his or her intention to apply for a license as stipulated in KRS 243.360. The advertisement shall meet the following requirements:

(1) The advertisement shall state the names and addresses of the members of the partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and address of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170 424. 130.

**Sec 3.08            LOCAL ADMINISTRATOR TO FIRST APPROVE APPLICATION**

An applicant for an alcoholic beverage license must have his city license approved by the City ABC Administrator before they are eligible to apply for a state license.

**Sec 3.09            APPLICATION FOR STATE LICENSE**

All applicants for alcoholic beverage licenses must submit an application to the state as stipulated in KRS 243.380.

**Sec 3.10            SUBMITTAL OF APPLICATION**

(A) An applicant for a license under this chapter shall file with the City ABC Administrator a copy of his state license application containing the information required by KRS 243.380 and 243.390. The City application shall include the consent of the applicant permitting the City ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened

by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the City ABC Administrator within thirty-six (36) hours.

(B) All licenses granted under this Ordinance shall be approved by the City ABC 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 of Vanceburg, as amended and supplemented from time to time.

(C) 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 of Vanceburg, 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 a Vanceburg resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this ordinance;
- (7) Extent of stock ownership; and
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

(D) Each application shall be accompanied by a certified check, money order, or cash for the license fee.

(E) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(F) All City licenses shall be in such form as may be prescribed by the City 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) The expiration date of the license; and
- (7) 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.

(G) All licenses approved by the City ABC Administrator and issued by the City of Vanceburg shall begin on July 1 of any year and shall expire on June 30 of the following year.

(H) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

**Sec 3.11 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE;  
SUSPENSION OR REVOCATION OF LICENSE**

(A) State Law References. Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490, 243.500, as well as violation of any city ordinance regarding alcoholic beverage licensing, sales, or the administration of licenses.

(B) Delinquent taxes or fees. No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due to the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The City ABC Administrator may, in his discretion, approve a license to sell after receiving from the City Clerk a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Clerk for payment of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees which are due and payable by the licensee.

(C) Appeals. Appeals may be taken from decisions of the City ABC Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

**Sec 3.12 APPROVAL OR DENIAL OF APPLICATION**

(A) If upon review of the application, the City ABC Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220 and 242.185(6), that a license may be issued

within the rules fixed by the State Alcoholic Beverage Control Board, and that there are no causes for denial of the license, the City ABC Administrator shall approve the application.

(B) If the City ABC Administrator has reasonable grounds to believe that an applicant has violated any law, rule, or regulation relating to alcoholic beverages, he may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The City ABC Administrator shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the City ABC Administrator. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided by law.

### **Sec. 3.13      PAYMENT OF FEES, REFUND OF FEES**

Upon approval of the application by the City ABC Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order, or cash. Payment shall be held on deposit by the City pending state license approval and issuance of the City license by the City ABC Administrator. If payment of a license fee was erroneously made or the licenses are not issued, the City shall authorize the payment of the refundable amount.

### **Sec. 3.14      ISSUANCE OF CITY LICENSES**

The City licenses shall be issued and the fees collected by the City Clerk. No license shall be issued by the City Clerk without the approval of the City ABC Administrator. The license shall be in the form of a standard City Business License and a business license category is hereby established of an Alcoholic Beverage Control License. The fees shall be those established in Section 3.02 of this chapter and shall not replace the standard business license fees required.

### **Sec. 3.15      POSTING OF LICENSES**

The licensee, before commencing any business for which a license has been issued, shall post and thereafter display the license 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 shall 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 the 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.

Each license in the same form prescribed by KRS 243.440 for state licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate or facsimile of each city license shall remain in the City Clerk's office as part of the public record.

### **Sec. 3.16      TRANSFER, ASSIGN, OR ACQUIRE EXISTING LICENSE**

The transfer, assignment, or acquisition of a city license shall be the same as provided for in state

licenses in KRS 243.630, 243.650, and 243.660.

**Sec. 3.17      APPLICANT TO PAY FOR OWN LICENSE**

The license fee for a city license shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued under these sections.

**Sec. 3.18      DEPOSIT OF FEES**

All monies derived from license fees or from fines as provided in this chapter shall be paid to the treasury of the City and become a part of the general funds of the City.

**Sec. 3.19      LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL**

(A) Surrender of license and exceptions. Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the City ABC Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, as amended from time to time, to control such license in dormancy. In the event a period of dormancy is applied for and granted by the ABC Administrator to the licensee, the licensee shall immediately notify the City ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City ABC Administrator and a fee shall be due and payable to the City for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(B) Applications approved by the City ABC Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premise involved. The City ABC Administrator may grant extensions, as he deems appropriate in exercise of his sound discretion, based on facts and circumstances surrounding each request.

(C) Renewals: Time for Filing. All renewal of licenses and payment of license fees must be on file with the City ABC Administrator fifteen (15) days before the expiration of the license for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement fifteen (15) days prior to the expiration date of the license, setting forth the facts justifying an extension. The City ABC Administrator may then extend the time for filing of a renewal of license for a reasonable length of time within the exercise of his sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

**Sec. 3.20 APPROVAL OF PREMISES**

The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the city building inspector and/or Zoning Administration, and any and all other inspections required by applicable law.

**Chapter 4.00 PROHIBITIONS, RESTRICTIONS, AND REGULATIONS**

**Sec. 4.01 HOURS OF SALE**

(A) Retail sale for Consumption on Licensed Premises. Premises for which there has been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and may not continue after midnight for Monday through Thursday and may not continue after 1:00 a.m. of the following mornings for Friday and Saturday. Consumption of alcoholic beverages may not continue for more than thirty (30) minutes after the respective hours set forth in this section.

(B) Control of Premises During Closing Hours. During the closing hours, the premises of any license for the sale of alcoholic beverages by the drink must be closed to and vacant of all customers and all persons except the licensee and his employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purposes.

(C) Extended Sunday Hours for Private Clubs. The City hereby authorizes private clubs located within the City to sell distilled spirits, wine, or malt beverages between the hours of 1:00 p.m. and 10:00 p.m., in accordance with KRS 243.050 and KRS 244.290.

**Sec. 4.02 HOURS OF SALE, EXCEPTION FOR FOOD SALES; REQUIREMENTS**

The licensee shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.

**Sec. 4.03 FOOD SERVICE REQUIREMENTS**

All license holders of a Limited Restaurant Alcoholic Beverage By The Drink License shall be required to maintain food service during all hours that alcohol is served.

**Sec. 4.04 LICENSE REVOCATION/SUSPENSION AND CONFISCATION  
AUTHORIZED IF VIOLATIONS OCCUR**

If any alcoholic or malt beverages are found on the outside of the locked or closed off area of any licensed premises at any hours during which the licensee is prohibited by the State Alcoholic Beverage Control Act or by this ordinance from selling alcoholic or malt beverages, or if any alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act, same shall be grounds for revocation or suspension of the license. In addition to other penalties provided for violation of this chapter, the City ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

**Sec. 405      ADVERTISING RESTRICTIONS**

(A) Signage which refers directly, or indirectly, to alcoholic beverages shall be limited to one (1) two square foot (2 sq. ft.) sign, for each fifty (50) square feet of glass window, which must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters, or other type of display advertising which refers either directly, or indirectly, to alcoholic beverages shall be displayed on, or shall be visible from, the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. The restriction shall not prevent any licensee from placing in the windows of the licensed premises business price cards not larger than two and one-half (2½) inches in size, setting forth the price at which he offers alcoholic beverages for sale.

(B) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(C) It shall be unlawful for any licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium for advertising alcoholic beverages.

(D) It shall be unlawful for any person holding a license under this chapter to sell 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 connection with the sale of alcoholic beverages.

(E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

**Sec. 4.06      TREATING PROHIBITED**

No license holder shall give away any alcoholic beverage in any quantity for less than a full monetary consideration.

**Sec. 4.07      LICENSEE TO PURCHASE FROM AND SELL ONLY TO PERSONS  
AUTHORIZED TO SELL OR PURCHASE**

(A) No licensee shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder of a special agents or solicitors license if such a license is required.

(B) No licensee shall sell, or agree to sell, any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agents or solicitors license.

**Sec. 4.08      RETAIL SALES TO CERTAIN PERSONS PROHIBITED**

No retail licensee shall sell, give away or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away or delivered to:

(A) A minor, except that in any prosecution for selling alcoholic beverages to a minor it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. The evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) A person actually or apparently under the Influence of alcoholic beverages.

(C) A habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Except as provided in Section C above, anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or for a felony, within the preceding twelve (12) months.

**Sec. 4.09      LICENSEE TO DISPLAY NOTICE AS TO THE SALE TO MINORS:  
WARNING OF DANGERS OF DRINKING DURING PREGNANCY TO  
BE POSTED**

(A) Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows:

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100) 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 purpose of purchasing or obtaining alcoholic beverages.

(B) All licensed retail vendors of alcoholic beverages shall post in prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches 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.

**Sec. 4.10        MINORS NOT TO POSSESS OR PURCHASE LIQUOR TO  
                         MISREPRESENT AGE - USE OF FRAUDULENT IDENTIFICATION**

(A) As used in KRS 244.083 and this section, Premises has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages.

(B) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing any alcoholic beverages.

(C) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(D) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensed agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(E) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

**Sec. 4.11        PERSONS WHO LICENSEES MAY NOT EMPLOY**

(A) A person holding any city license shall not 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, unless the person is employed in a capacity that does not involve the sale or serving of alcoholic beverages.

(4) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(B) The provisions of paragraph (1) and (2) of subsection (A) of this section shall not apply if the employee's duties do not involve the sale, delivery, or traffic in alcoholic beverages at the licensed premises.

(C) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation or suspension of license.

**Sec. 4.12      RETAIL PREMISES NOT TO BE DISORDERLY**

(A) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.

(B) Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk thereof through:

- (1) Engaging in fighting or in violent, tumultuous, or threatening behavior; or
- (2) Making unreasonable noise; or
- (3) Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to fire, hazard, or other emergency; or
- (4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or
- (5) Conducting promotional efforts that are not customary or usual for a restaurant operation (e.g., wet t-shirt contest).

(C) No person licensed to sell alcoholic beverages at retail shall cause, allow or permit dancing or karaoke singing or pool tables on the premises which holds a city license.

(D) 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, unless otherwise authorized by the Commonwealth of Kentucky.

(E) 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 addition to other penalties provided for the violation of this section, the City Chief of Police or the City ABC Administrator, or a designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(F) 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 premises.

Security standards include such means as are necessary to discourage unlawful activity in and around the licensed premises.

## **Chapter 5.00 ENFORCEMENT**

Vanceburg City police officers and the City ABC Administrator are authorized to enforce this ordinance for alleged violations.

### **Sec. 5.01 INVESTIGATION AND INSPECTION OF PREMISES**

The City ABC Administrator and any investigator acting under the authority of the City ABC Administrator shall have the full police powers of peace officers within boundaries of the City of Vanceburg. They, along with any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked, without first obtaining a search warrant.

### **Sec. 5.02 PENALTIES FOR VIOLATIONS OF CHAPTER 5**

The following penalties shall be in addition to any criminal prosecution instituted in Lewis County courts against an alleged violator and fines hereunder shall be payable to the City ABC Administrator.

The City ABC Administrator may assess a fine of not more than five hundred dollars (\$500.00) per violation. The payment of said fine shall be transmitted to the City Treasurer 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 One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than three (3) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$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, limited liability company, joint stock company, or association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

## **Chapter 6.00 IMPLEMENTATION OF ORDINANCE PROVISIONS**

From time to time, the Vanceburg City Council may by resolution or order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this ordinance


### **Sec 6.01 SEVERABILITY**

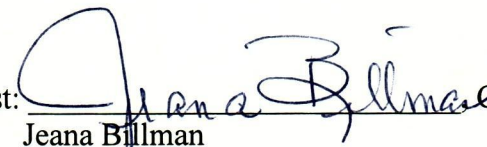
If any section, sentence, clause, or portion of this ordinance is for any reason declared illegal,

unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

Where appropriate as used herein, the masculine shall include the feminine, the singular the plural, and vice versa.

This ordinance shall be effective immediately upon publication. Ordinances No. 410.05, No. 410.05A, No. 410.05B, and 410.05C are hereby repealed, and any other ordinances or parts of ordinances in conflict herewith are hereby repealed.

  
\_\_\_\_\_  
Matt Ginn, Mayor

Attest:  City Clerk  
Jeana Billman

First Reading: 10.15.18

Second Reading: 10.18.18

Date Published: 10.23.18

**SUMMARY OF  
CITY OF VANCEBURG, KENTUCKY  
ORDINANCE NO. 410.05C**

**ALCOHOLIC BEVERAGE CONTROL ORDINANCE**

Ordinance No. 410.05C, entitled “Alcoholic Beverage Control Ordinance” received a second reading and was passed at the November 7, 2016 regular meeting of the Vanceburg City Council. The Ordinance repeals and replaces prior Ordinance No. 410.05B and sets forth the regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales in the City of Vanceburg; it adopts all applicable and required Kentucky Revised Statutes, including but not limited to KRS Chapters 241 through 244; it provides that all licenses issued by the City of Vanceburg shall begin on July 1 and shall expire on June 30 of the following year, to bring the Ordinance into compliance of KRS 243.090; it provides for administration and control of the manufacture and sales of alcoholic beverages within the City of Vanceburg; sets forth the prohibitions, restrictions, and regulations concerning alcoholic beverage manufacture and sales; sets forth the enforcement procedures and penalties for the provisions of the Ordinance; and provides the license fees established under the Ordinance, the full text of which is set forth below, pursuant to KRS 83A.060(9):

**Sec. 3.02      LICENSE FEES**

All licenses permitted under Kentucky law for a city shall be allowed and all licenses granted under this chapter shall be approved and issued by the City ABC Administrator.

All fees that are imposed by KRS 243.070 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any City of Vanceburg licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of Vanceburg ABC Administrator and the fees shall be paid when application for a license is made:

**(A) Distilled spirit and wine licenses:**

- (1) Wholesaler's distilled spirits and wine license, per annum.....\$600.00
- (2) Distilled spirits and wine retail package license, per annum.....\$600.00
- (3) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (4) Distilled spirits and wine special temporary liquor license, per event.....\$100.00
- (5) Special temporary wine license, per event.....\$50.00
- (6) Distilled spirits and wine special temporary auction license, per event.....\$200.00
- (7) Special private club license, per annum.....\$300.00
- (8) Nonresident special agent or solicitor's license, per annum.....\$40.00
- (9) Restaurant wine license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (10) Extended hours supplemental license, per annum.....\$200.00

**(B) Caterer's license:**

Caterers may be issued a caterer's license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer's license as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer's license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer's license) must also obtain a City business license. The annual City fee for a caterer's supplemental license for malt beverages by the drink shall be \$150.00 and for renewal, the fee shall be \$75.00. The annual City fee for a caterer's supplemental license for distilled spirits and wine by the drink shall be \$200.00, and for renewal the fee shall be \$100.00.


**(C) Malt beverage licenses:**

- (1) Brewer’s license, per annum.....\$500.00
- (2) Microbrewery license, per annum.....\$500.00
- (3) Malt beverage distributor’s license, per annum.....\$400.00
- (4) Retail malt beverage license, per annum.....\$200.00
- (5) Special temporary retail malt beverage license, per event.....\$25.00
- (6) Malt beverage brew-on-premises license, per annum.....\$100.00

This Ordinance is effective upon publication of this Summary Notice.

Prepared By:

Matt Ginn, Mayor



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LLOYD E. SPEAR, City Attorney  
City of Vandeberg

**CITY OF VANCEBURG, KENTUCKY**

**ORDINANCE NO. 410.05C**

AN ORDINANCE OF THE CITY OF VANCEBURG, KENTUCKY REPEALING PRIOR ORDINANCE NO. 410.05B AND ADOPTING THE FOLLOWING SET OF REGULATIONS AND REQUIREMENTS FOR ALCOHOL BEVERAGE CONTROL, HEREINAFTER TO BE KNOWN AS THE CITY OF VANCEBURG'S "ALCOHOLIC BEVERAGE CONTROL ORDINANCE"; AND FURTHER ADOPTING ALL APPLICABLE AND REQUIRED KENTUCKY REVISED STATUTES, INCLUDING BUT NOT LIMITED TO KRS CHAPTERS 241 THROUGH 244:

WHEREAS, THE CITY OF VANCEBURG, BY AND THROUGH A MAJORITY OF REGISTERED VOTERS, NOW PERMITS THE PRESENCE OF ALCOHOLIC BEVERAGE MANUFACTURING AND SALES WITHIN THE CORPORATE LIMITS OF THE CITY OF VANCEBURG SO LONG AS SUCH IS DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAW; AND

WHEREAS, THE CITY OF VANCEBURG THEREFORE MUST ESTABLISH UNIFORM REGULATIONS AND REQUIREMENTS FOR THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES, MANUFACTURE AND SALES PURSUANT TO AUTHORIZATION UNDER KRS CHAPTERS 241 THROUGH 244;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF VANCEBURG, KENTUCKY, THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

**Chapter 410.00 ALCOHOLIC BEVERAGE CONTROL**

**Chapter 410 of the Codified Ordinances of the City of Vanceburg is hereby repealed and replaced in its entirety as follows:**

**Sec. 1.01      SHORT TITLE**

This Ordinance shall be known and may be cited as the Alcoholic Beverage Control Ordinance of the City of Vanceburg.

**Sec. 1.02      PURPOSE**

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.

**Sec. 1.03      DEFINITIONS**

As used in this chapter, unless the context clearly indicates or requires a different meaning, the

words and terms defined in KRS 241.010 shall apply.

#### **Sec. 1.04 INCORPORATION OF STATE LAW**

(A) The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapters 241, 242, 243, and 244 pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the alcoholic beverage control law of the City, except as otherwise lawfully provided herein.

(B) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and regulations of the state applicable thereto. Penalty, see Section 5.00.

#### **Sec 1.05 SCOPE OF COVERAGE**

(A) This chapter shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine where the context permits such applications.

(B) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee, or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinances of the city or of any other statutes of the state relating to violations to alcoholic beverages.

### **Chapter 2.00 ADMINISTRATION AND CONTROL**

#### **Sec. 2.01 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR**

As provided by KRS 241.160, the City of Vanceburg, in which alcoholic beverages are permitted, shall have City Alcoholic Beverage Control (ABC) Administrator. The duties of the City ABC Administrator shall be assigned to the office of the Mayor. The City ABC Administrator may recommend regulations as may be necessary to implement this chapter; any such regulations shall be in writing and shall be presented to the City Council for approval. The Mayor can initially assume the responsibility of the City ABC Administrator; however he/she may designate a person to the position. The City Council will determine the salary of the City ABC Administrator.

#### **Sec. 2.02 OATH AND BOND OF LOCAL ABC ADMINISTRATOR AND EMPLOYEES**

(A) The City ABC Administrator, before entering upon his duties as such, shall take the oath prescribed in KRS 241.180, and shall execute a bond with a good standing corporate surety in the amount of not less than one thousand dollars (\$1,000.00).

(B) The City ABC Administrator may require any city employee under his supervision to

execute a similar bond in such amount, as he deems necessary.

### **Sec. 2.03 FUNCTIONS, DUTIES, AND POWERS**

(A) The functions of the City ABC Administrator shall be the same with respect to the city license and regulations, as the functions of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations of the ABC Administrator, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until the City Council has first appropriately approved it.

(B) The City ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of city licenses as the State Alcoholic Beverage Control Board has with respect to state licenses under KRS 241.060. The City ABC Administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

### **Sec. 2.04 POLICE POWER**

The City ABC Administrator and his designee shall have the full police powers of law enforcement officers, and their jurisdiction shall be co-extensive with the boundaries of the City. They, along with the City of Vanceburg law enforcement officers, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked, without first obtaining a search warrant. City law enforcement officers shall have full police powers while performing any such inspections.

### **Sec. 2.05 RIGHT OF INSPECTION**

The City ABC Administrator and his designee shall have available at all reasonable times for their inspection all books and records required to be maintained by licensees under KRS 244.150 and the City ABC Administrator shall receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

### **Sec. 2.06 APPEALS FROM CITY ABC ADMINISTRATOR**

Appeals from the order of the City ABC Administrator may be taken to the state Alcoholic Beverage Control Board by filing with the board, within thirty (30) days, a certified copy of the orders of the City ABC Administrator. The board shall hear matters at issue as an original proceeding.

## **Chapter 3.00 LICENSE AND TAXES**

### **Sec. 3.01 LICENSE REQUIRED FOR SALE**

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt

beverage, or distilled spirits, or wine, nor manufacture or transport any alcoholic or malt beverage, or distilled spirits, or wine in the City unless he shall first procure and have issued to him a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter.

**Sec. 3.02 LICENSE FEES**

All licenses permitted under Kentucky law for a city shall be allowed and all licenses granted under this chapter shall be approved and issued by the City ABC Administrator.

All fees that are imposed by KRS 243.070 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any City of Vanceburg licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of Vanceburg ABC Administrator and the fees shall be paid when application for a license is made:

**(A) Distilled spirit and wine licenses:**

- (1) Wholesaler's distilled spirits and wine license, per annum.....\$3,000.00
- (2) Distilled spirits and wine retail package license, per annum.....\$600.00
- (3) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (4) Distilled spirits and wine special temporary liquor license, per event.....\$100.00
- (5) Special temporary wine license, per event.....\$50.00
- (6) Distilled spirits and wine special temporary auction license, per event.....\$200.00
- (7) Special private club license, per annum.....\$300.00
- (8) Nonresident special agent or solicitor's license, per annum.....\$40.00
- (9) Restaurant wine license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (10) Extended hours supplemental license, per annum.....\$200.00

**(B) Caterer's license:**

Caterers may be issued a caterer's license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer's license as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer's license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer's license) must also obtain a City business license. The annual City fee for a caterer's supplemental license for malt beverages by the drink shall be \$150.00 and for renewal, the fee shall be \$75.00. The annual City fee for a caterer's supplemental license for distilled spirits and wine by the drink shall be \$200.00, and for renewal the fee shall be \$100.00.

**(C) Malt beverage licenses:**

- (1) Brewer's license, per annum.....\$500.00
- (2) Microbrewery license, per annum.....\$500.00
- (3) Malt beverage distributor's license, per annum.....\$400.00
- (4) Retail malt beverage license, per annum.....\$200.00
- (5) Special temporary retail malt beverage license, per event.....\$25.00
- (6) Malt beverage brew-on-premises license, per annum.....\$100.00

**Sec 3.03      DATE LICENSES EXPIRE; PRORATION**

All licenses issued by the City shall be valid for a period of no more than one year. All licenses shall expire on June 30 of each year. Applications for renewal are to be filed with the City at least fifteen (15) days prior to expiration.

When any person applies for a new license he shall be charged 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 (6) months remain before the license is due to be renewed. In the event any licensee shall cease doing business for any reason, no refund of the City license fee shall be granted.

**Sec 3.04      PERSONS WHO MAY NOT BE LICENSED**

A person shall not become a licensee under this chapter for any of the reasons stated in KRS 243.100.

**Sec 3.05        PREMISES THAT MAY NOT BE LICENSED FOR SALES AT RETAIL**

No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in the possession of the premises under a written lease or a permit for no less than the license period.

**Sec 3.06        BUSINESSES AUTHORIZED BY RETAIL DRINK LICENSE**

A limited restaurant alcoholic beverage by the drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers.

**Sec 3.07        PUBLIC NOTICE OF INTENT TO APPLY FOR LICENSE**

Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for a supplemental bar license shall before applying for a license advertise, by publication in the Lewis County Herald, his or her intention to apply for a license as stipulated in KRS 243.360. The advertisement shall meet the following requirements:

(1) The advertisement shall state the names and addresses of the members of the partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and address of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170 424. 130.

**Sec 3.08        LOCAL ADMINISTRATOR TO FIRST APPROVE APPLICATION**

An applicant for an alcoholic beverage license must have his city license approved by the City ABC Administrator before they are eligible to apply for a state license.

**Sec 3.09        APPLICATION FOR STATE LICENSE**

All applicants for alcoholic beverage licenses must submit an application to the state as stipulated in KRS 243.380.

**Sec 3.10        SUBMITTAL OF APPLICATION**

(A) An applicant for a license under this chapter shall file with the City ABC Administrator a copy of his state license application containing the information required by KRS 243.380 and 243.390. The City application shall include the consent of the applicant permitting the City ABC

Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the City ABC Administrator within thirty-six (36) hours.

(B) All licenses granted under this Ordinance shall be approved by the City ABC 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 of Vanceburg, as amended and supplemented from time to time.

(C) 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 of Vanceburg, 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 a Vanceburg resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this ordinance;
- (7) Extent of stock ownership; and
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

(D) Each application shall be accompanied by a certified check, money order, or cash for the license fee.

(E) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(F) All City licenses shall be in such form as may be prescribed by the City 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) The expiration date of the license; and
- (7) 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.

(G) All licenses approved by the City ABC Administrator and issued by the City of Vanceburg shall begin on July 1 of any year and shall expire on June 30 of the following year.

(H) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

**Sec 3.11 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE;  
SUSPENSION OR REVOCATION OF LICENSE**

(A) State Law References. Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490, 243.500, as well as violation of any city ordinance regarding alcoholic beverage licensing, sales, or the administration of licenses.

(B) Delinquent taxes or fees. No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due to the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The City ABC Administrator may, in his discretion, approve a license to sell after receiving from the City Clerk a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Clerk for payment of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees which are due and payable by the licensee.

(C) Appeals. Appeals may be taken from decisions of the City ABC Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

**Sec 3.12 APPROVAL OR DENIAL OF APPLICATION**

(A) If upon review of the application, the City ABC Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all

regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220 and 242.185(6), that a license may be issued within the rules fixed by the State Alcoholic Beverage Control Board, and that there are no causes for denial of the license, the City ABC Administrator shall approve the application.

(B) If the City ABC Administrator has reasonable grounds to believe that an applicant has violated any law, rule, or regulation relating to alcoholic beverages, he may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The City ABC Administrator shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the City ABC Administrator. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided by law.

### **Sec. 3.13      PAYMENT OF FEES, REFUND OF FEES**

Upon approval of the application by the City ABC Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order, or cash. Payment shall be held on deposit by the City pending state license approval and issuance of the City license by the City ABC Administrator. If payment of a license fee was erroneously made or the licenses are not issued, the City shall authorize the payment of the refundable amount.

### **Sec. 3.14      ISSUANCE OF CITY LICENSES**

The City licenses shall be issued and the fees collected by the City Clerk. No license shall be issued by the City Clerk without the approval of the City ABC Administrator. The license shall be in the form of a standard City Business License and a business license category is hereby established of an Alcoholic Beverage Control License. The fees shall be those established in Section 3.02 of this chapter and shall not replace the standard business license fees required.

### **Sec. 3.15      POSTING OF LICENSES**

The licensee, before commencing any business for which a license has been issued, shall post and thereafter display the license 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 shall 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 the 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.

Each license in the same form prescribed by KRS 243.440 for state licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate or facsimile of each city license shall remain in the City Clerk's office as part of the public record.

**Sec. 3.16      TRANSFER, ASSIGN, OR ACQUIRE EXISTING LICENSE**

The transfer, assignment, or acquisition of a city license shall be the same as provided for in state licenses in KRS 243.630, 243.650, and 243.660.

**Sec. 3.17      APPLICANT TO PAY FOR OWN LICENSE**

The license fee for a city license shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued under these sections.

**Sec. 3.18      DEPOSIT OF FEES**

All monies derived from license fees or from fines as provided in this chapter shall be paid to the treasury of the City and become a part of the general funds of the City.

**Sec. 3.19      LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL**

(A) Surrender of license and exceptions. Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the City ABC Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, as amended from time to time, to control such license in dormancy. In the event a period of dormancy is applied for and granted by the ABC Administrator to the licensee, the licensee shall immediately notify the City ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City ABC Administrator and a fee shall be due and payable to the City for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(B) Applications approved by the City ABC Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premise involved. The City ABC Administrator may grant extensions, as he deems appropriate in exercise of his sound discretion, based on facts and circumstances surrounding each request.

(C) Renewals: Time for Filing. All renewal of licenses and payment of license fees must be on file with the City ABC Administrator fifteen (15) days before the expiration of the license for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement fifteen (15) days prior to the expiration date of the license, setting forth the facts justifying an extension. The City ABC Administrator may then extend the time for filing of a renewal of license for a reasonable length of time within the exercise of his sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are

not renewed at or before the end of the extension period.

### **Sec. 3.20 APPROVAL OF PREMISES**

The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the city building inspector and/or Zoning Administration, and any and all other inspections required by applicable law.

## **Chapter 4.00 PROHIBITIONS, RESTRICTIONS, AND REGULATIONS**

### **Sec. 4.01 HOURS OF SALE**

(A) Retail sale for Consumption on Licensed Premises. Premises for which there has been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and may not continue after midnight for Monday through Thursday and may not continue after 1:00 a.m. of the following mornings for Friday and Saturday. Consumption of alcoholic beverages may not continue for more than thirty (30) minutes after the respective hours set forth in this section.

(B) Control of Premises During Closing Hours. During the closing hours, the premises of any license for the sale of alcoholic beverages by the drink must be closed to and vacant of all customers and all persons except the licensee and his employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purposes.

### **Sec. 4.02 HOURS OF SALE, EXCEPTION FOR FOOD SALES; REQUIREMENTS**

The licensee shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.

### **Sec. 4.03 FOOD SERVICE REQUIREMENTS**

All license holders of a Limited Restaurant Alcoholic Beverage By The Drink License shall be required to maintain food service during all hours that alcohol is served.

### **Sec. 4.04 LICENSE REVOCATION/SUSPENSION AND CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR**

If any alcoholic or malt beverages are found on the outside of the locked or closed off area of any licensed premises at any hours during which the licensee is prohibited by the State Alcoholic Beverage Control Act or by this ordinance from selling alcoholic or malt beverages, or if any alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of

sale in violation of this chapter and the State Alcoholic Beverage Control Act, same shall be grounds for revocation or suspension of the license. In addition to other penalties provided for violation of this chapter, the City ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

**Sec. 405      ADVERTISING RESTRICTIONS**

(A) Signage which refers directly, or indirectly, to alcoholic beverages shall be limited to one (1) two square foot (2 sq. ft.) sign, for each fifty (50) square feet of glass window, which must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters, or other type of display advertising which refers either directly, or indirectly, to alcoholic beverages shall be displayed on, or shall be visible from, the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. The restriction shall not prevent any licensee from placing in the windows of the licensed premises business price cards not larger than two and one-half (2½) inches in size, setting forth the price at which he offers alcoholic beverages for sale.

(B) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(C) It shall be unlawful for any licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium for advertising alcoholic beverages.

(D) It shall be unlawful for any person holding a license under this chapter to sell 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 connection with the sale of alcoholic beverages.

(E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

**Sec. 4.06      TREATING PROHIBITED**

No license holder shall give away any alcoholic beverage in any quantity for less than a full monetary consideration.

**Sec. 4.07      LICENSEE TO PURCHASE FROM AND SELL ONLY TO PERSONS  
AUTHORIZED TO SELL OR PURCHASE**

(A) No licensee shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder of a special agents or solicitors license if such a license is required.

(B) No licensee shall sell, or agree to sell, any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agents or solicitors license.

**Sec. 4.08      RETAIL SALES TO CERTAIN PERSONS PROHIBITED**

No retail licensee shall sell, give away or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away or delivered to:

(A) A minor, except that in any prosecution for selling alcoholic beverages to a minor it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. The evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) A person actually or apparently under the Influence of alcoholic beverages.

(C) A habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Except as provided in Section C above, anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or for a felony, within the preceding twelve (12) months.

**Sec. 4.09      LICENSEE TO DISPLAY NOTICE AS TO THE SALE TO MINORS:  
WARNING OF DANGERS OF DRINKING DURING PREGNANCY TO  
BE POSTED**

(A) Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows:

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100) 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 purpose of purchasing or obtaining alcoholic beverages.

(B) All licensed retail vendors of alcoholic beverages shall post in prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches 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.

**Sec. 4.10 MINORS NOT TO POSSESS OR PURCHASE LIQUOR TO MISREPRESENT AGE - USE OF FRAUDULENT IDENTIFICATION**

(A) As used in KRS 244.083 and this section, Premises has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages.

(B) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing any alcoholic beverages.

(C) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(D) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensed agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(E) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

**Sec. 4.11 PERSONS WHO LICENSEES MAY NOT EMPLOY**

(A) A person holding any city license shall not 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, unless the person is employed in a capacity that does not involve the sale or serving of alcoholic beverages.

(4) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(B) The provisions of paragraph (1) and (2) of subsection (A) of this section shall not apply if the employee's duties do not involve the sale, delivery, or traffic in alcoholic beverages at the licensed premises.

(C) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation or suspension of license.

**Sec. 4.12 RETAIL PREMISES NOT TO BE DISORDERLY**

(A) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.

(B) Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk thereof through:

- (1) Engaging in fighting or in violent, tumultuous, or threatening behavior; or
- (2) Making unreasonable noise; or
- (3) Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to fire, hazard, or other emergency; or
- (4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or
- (5) Conducting promotional efforts that are not customary or usual for a restaurant operation (e.g., wet t-shirt contest).

(C) No person licensed to sell alcoholic beverages at retail shall cause, allow or permit dancing or karaoke singing or pool tables on the premises which holds a city license.

(D) 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, unless otherwise authorized by the Commonwealth of Kentucky.

(E) 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 addition to other penalties provided for the violation of this section, the City Chief of Police or the City ABC Administrator, or a designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(F) 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 premises. Security standards include such means as are necessary to discourage unlawful activity in and around the licensed premises.

**Chapter 5.00 ENFORCEMENT**

Vanceburg City police officers and the City ABC Administrator are authorized to enforce this ordinance for alleged violations.

**Sec. 5.01      INVESTIGATION AND INSPECTION OF PREMISES**

The City ABC Administrator and any investigator acting under the authority of the City ABC Administrator shall have the full police powers of peace officers within boundaries of the City of Vanceburg. They, along with any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked, without first obtaining a search warrant.

**Sec. 5.02      PENALTIES FOR VIOLATIONS OF CHAPTER 5**

The following penalties shall be in addition to any criminal prosecution instituted in Lewis County courts against an alleged violator and fines hereunder shall be payable to the City ABC Administrator.

The City ABC Administrator may assess a fine of not more than five hundred dollars (\$500.00) per violation. The payment of said fine shall be transmitted to the City Treasurer 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 One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than three (3) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$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, limited liability company, joint stock company, or association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

**Chapter 6.00   IMPLEMENTATION OF ORDINANCE PROVISIONS**

From time to time, the Vanceburg City Council may by resolution or order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this ordinance

**Sec 6.01      SEVERABILITY**

If any section, sentence, clause, or portion of this ordinance is for any reason declared illegal, unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

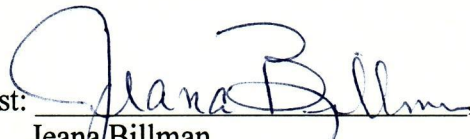
Where appropriate as used herein, the masculine shall include the feminine, the singular the plural, and vice versa.

This ordinance shall be effective immediately upon publication. Ordinances No. 410.05, No.

410.05A, and No. 410.05B are hereby repealed, and any other ordinances or parts of ordinances in conflict herewith are hereby repealed.



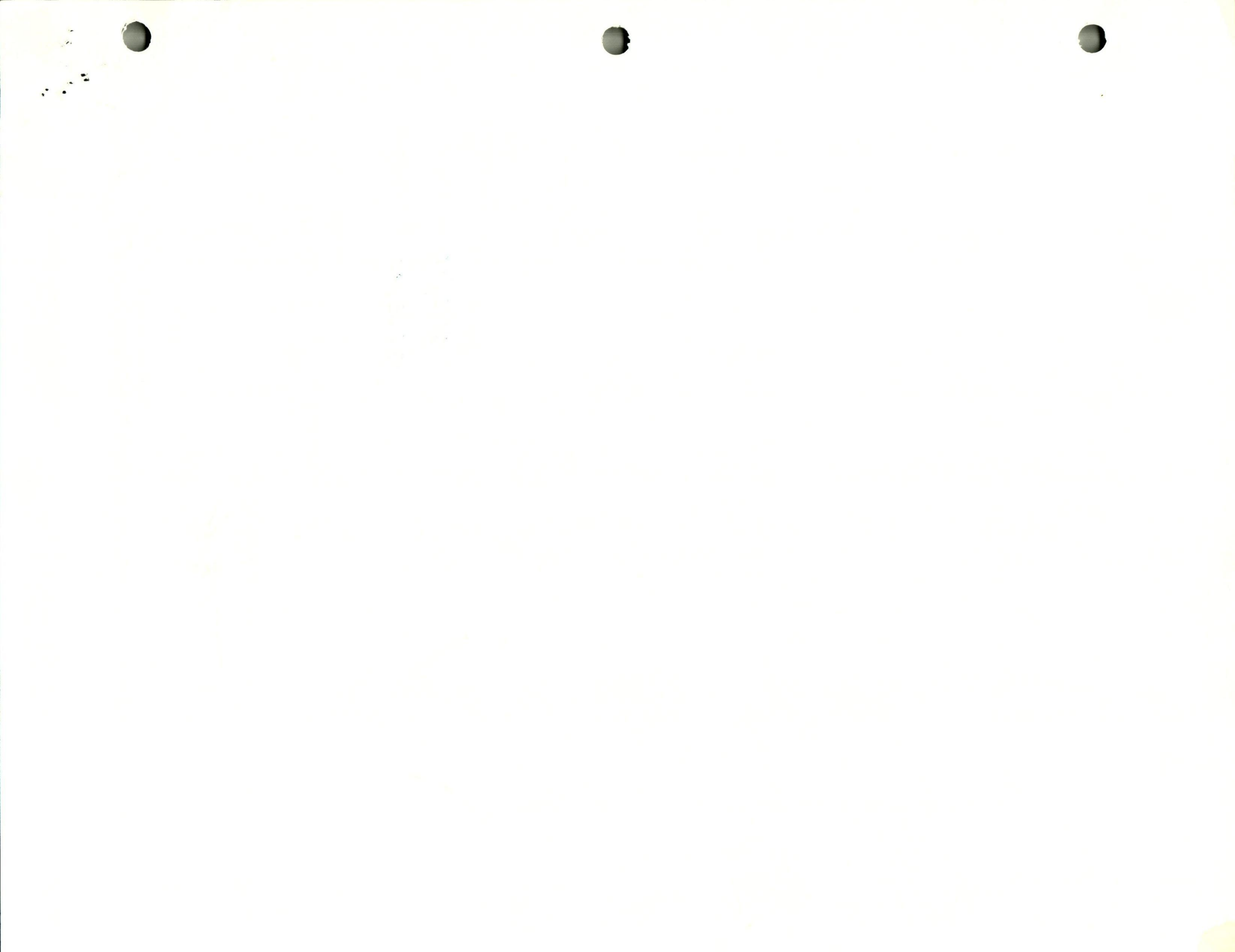
\_\_\_\_\_  
Matt Ginn, Mayor

Attest:  City Clerk  
Jeana Billman

First Reading: 10/3/16

Second Reading: 11/7/16

Date Published: 11.22.16



ORDINANCE NO. 410.01  
(Revised August 3, 1998)

**AN ORDINANCE OF THE CITY OF VANCEBURG ESTABLISHING  
ALCOHOLIC BEVERAGE LICENSES AND SETTING THE FEE FOR SAME**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG:

**Section 1: Kinds of Licenses and Fees**

Pursuant to KRS 243.070, the following kinds of alcoholic beverage licenses may be issued by the City Clerk upon the approval of the City Alcoholic Beverage Control administrator, and the fees for which shall be:

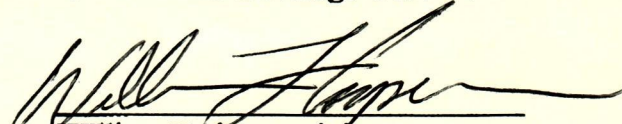
- (1) Wholesale distilled spirits and wine license, per annum.....\$2,000.00
- (2) Distilled spirits and wine retail package license, per  
annum.....\$ 600.00
- (3)Transporter's license, per annum.....\$ 200.00
- (4) Special temporary license per month or any part of month  
one-sixth of the fees enumerated above
- (5) Special private club license, per annum.....\$ 800.00
- (6) Restaurant wine license, per annum.....\$ 100.00
- (7) Malt beverage distributor's license.....\$ 200.00
- (8) Malt beverage retailer's license, per annum.....\$ 200.00

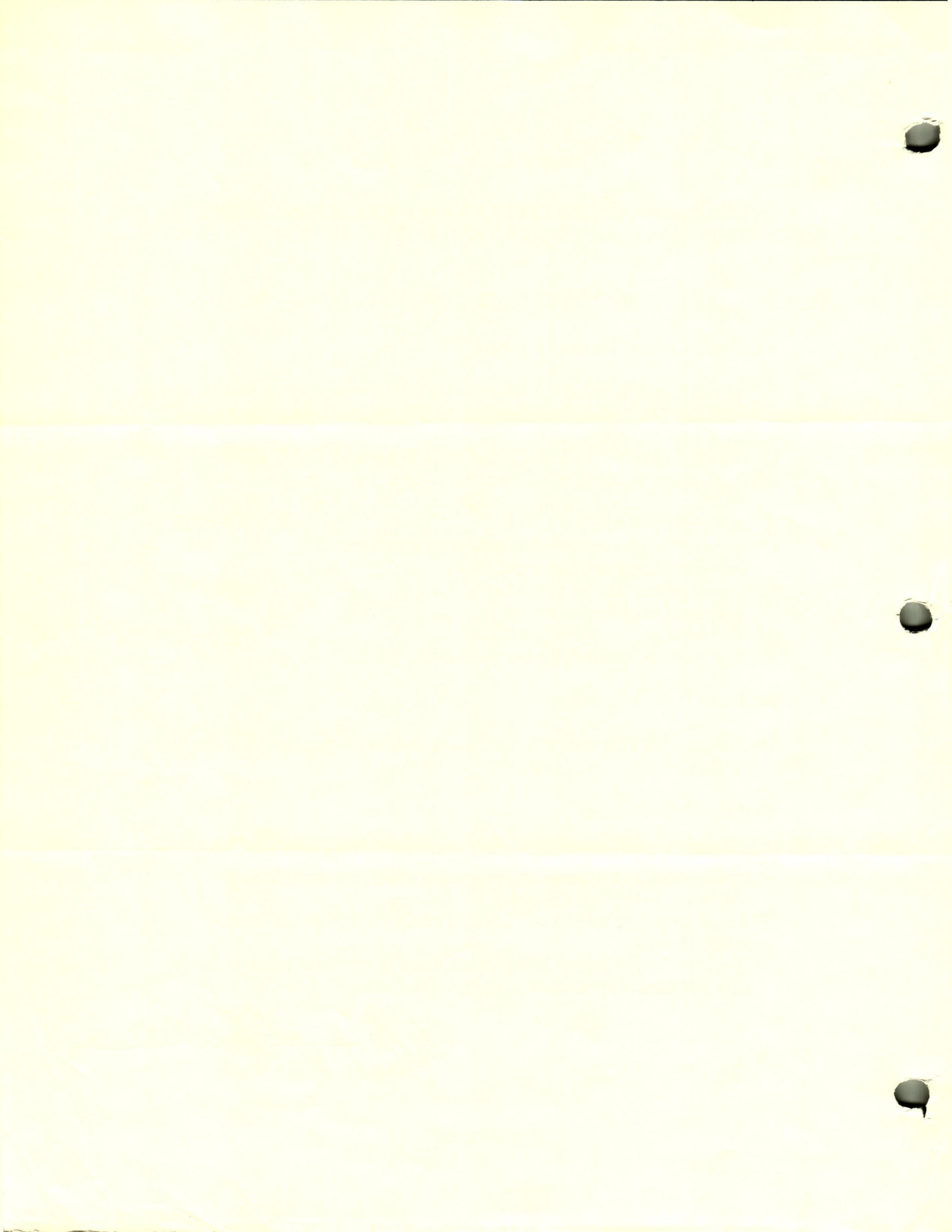
**Section 2: Term of Licenses**

The licenses issued pursuant to this ordinance shall be for the period commencing July 1, and ending June 30 of each year.

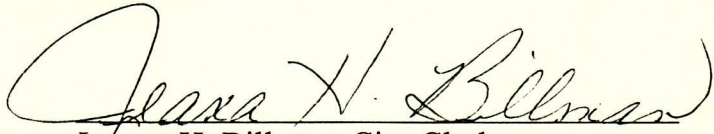
**Section 3: Miscellaneous**

- (1) All moneys collected pursuant to this Ordinance shall be paid into the General Fund of the City to be used for the payment of proper expenditures as determined by the City Council.
- (2) All ordinances, or parts of ordinances in conflict with this Ordinance are hereby repealed.
- (3) The City Clerk is hereby directed to send a copy of this ordinance to the Commissioner of the Kentucky Department of Alcoholic Beverage Control.

  
William T. Cooper, Mayor



ATTEST:

  
Jeanna H. Billman, City Clerk

First Reading: August 3, 1998

Second Reading: SEPTEMBER 8, 1998

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410.1 ALCOHOLIC BEVERAGE LICENSE

SECTION ONE: The City Council of the City of Vanceburg, Kentucky, hereby set the following license fees for traffic in alcoholic beverages in the city limits of said city:

1. Wholesaler's License . . . . . \$2,000.00
2. Retail Package License . . . . . \$600.00
3. Transporter's License . . . . . \$200.00
4. Special Temporary License per month on part of month, (1-6) one-sixth of the fees enumerated above
5. Special Private Club License . . . . . \$800.00
6. Distributor's License . . . . . \$200.00
7. Retailer's (Malt Beverage License) . . \$200.00

1. The above licenses are for the period of one year, starting on January the first and ending December 31st of each year. As authorized in Chapter 243, Kentucky Statutes.

2. These Licenses will be passed on by the City Council of the City of Vanceburg, Kentucky.

3. All ordinances, or parts of ordinances in conflict with the above are hereby expressly repealed.



410.2 ALCOHOLIC BEVERAGE LICENSE - Carry Out

SECTION ONE: The City Council of the City of Vanceburg do ordain that the city shall issue carry out licenses for malt beverage retailers where no beer can be consumed on premises. The license fee to be two hundred (\$200.00) dollars per year . . . .



410.4 ALCOHOLIC BEVERAGE LICENSE (AMENDS, 410.1)

SECTION ONE: That the date for the starting date of city licenses in Ordinance 410.1 changed from January the first to July the first. Also the ending date in the same Ordinance be changed to June the thirtieth instead of December the thirty-first.



**SUMMARY OF  
CITY OF VANCEBURG, KENTUCKY  
ORDINANCE NO. 410.05D**

**ALCOHOLIC BEVERAGE CONTROL ORDINANCE,  
AS AMENDED MAY 18, 2018**

Ordinance No. 410.05D, entitled "Alcoholic Beverage Control Ordinance" received a second reading and was passed as amended May 18, 2018 at a special called meeting of the Vanceburg City Council. The Ordinance repeals and replaces prior Ordinance No. 410.05C and sets forth the regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales in the City of Vanceburg; it adopts all applicable and required Kentucky Revised Statutes, including but not limited to KRS Chapters 241 through 244; it provides that all licenses issued by the City of Vanceburg shall begin on July 1 and shall expire on June 30 of the following year, to bring the Ordinance into compliance with KRS 243.090; it provides for administration and control of the manufacture and sales of alcoholic beverages within the City of Vanceburg; sets forth the prohibitions, restrictions, and regulations concerning alcoholic beverage manufacture and sales; sets forth the enforcement procedures and penalties for the provisions of the Ordinance; sets the salary for the ABC Administrator at \$500.00 per month; and provides the regulatory license fee and other license fees established under the Ordinance, the full text of which is set forth below, pursuant to KRS 83A.060(9):

**Sec. 3.02      LICENSE FEES**

**(1) PERMITTED LICENSES:** All licenses permitted under Kentucky law for a city shall be allowed and all licenses granted under this chapter shall be approved and issued by the City ABC Administrator.

**(2) PLACE OF FEE PAYMENT:** All fees that are imposed by KRS 243.070 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any City of Vanceburg licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of

Vanceburg ABC Administrator and the fees shall be paid when application for a license is made:

**(3) REGULATORY LICENSE FEE.**

(A) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee upon the gross receipts of each and every person or entity licensed by the City ABC Administrator. The initial regulatory license fee shall be 2.5% of gross sales of alcoholic beverages.

(B) Payment of such regulatory fees shall be remitted to the City ABC Administrator and shall be held in a separate account maintained for the purposes of fully reimbursing the city for any estimated costs of any policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees or license permitted by law; except that, a credit against a regulatory license fee in the city shall be allowed in any amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the tax returns approved for such use by the City Council. These returns and payments 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 days of the due date constitutes a violation and subjects licensee to suspension or revocation.

(D) Penalty for failure to file a return and pay quarterly remittance by the due date is 5% of the tax for each 90 days or fraction thereof. The total late filing penalty shall not exceed 25% of the tax; provided, however, that, in no case shall the penalty be less than \$10.

(E) Interest at the rate of 8% per annum will apply to any late payments.

(F) Annually, effective July 1 of each year commencing in 2018, the City Council shall review and establish the regulatory license fee for the ensuing year so as to conform to the requirements of this ordinance and KRS 243.075.

Prior to establishing the subsequent regulatory license fee, the Mayor shall cause the city's auditor to audit the regulatory license fee account to insure compliance with KRS 243.075, and in conjunction with the City Clerk, to recommend, based upon the experience of the prior fiscal year, a fee rate for the ensuing year.

The Auditor shall report his findings to the City Council and in addition to the regulatory license fee, recommend any action he deems necessary to insure compliance with KRS 243.075.

**(4) OTHER LICENSE FEES:**

**(A) Distilled spirit and wine licenses:**

- (1) Wholesaler's distilled spirits and wine license, per annum.....\$3,000.00
- (2) Distilled spirits and wine retail package license, per annum.....\$600.00

- (3) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (4) Distilled spirits and wine special temporary liquor license, per event.....\$100.00
- (5) Special temporary wine license, per event.....\$50.00
- (6) Distilled spirits and wine special temporary auction license, per event.....\$200.00
- (7) Special private club license, per annum.....\$300.00
- (8) Nonresident special agent or solicitor’s license, per annum.....\$40.00
- (9) Restaurant wine license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (10) Extended hours supplemental license, per annum.....\$200.00

**(B) Caterer’s license:**

Caterers may be issued a caterer’s license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer’s license as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer’s license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer’s license) must also obtain a City business license. The annual City fee for a caterer’s supplemental license for malt beverages by the drink shall be \$150.00 and for renewal, the fee shall be \$75.00. The annual City fee for a caterer’s supplemental license for distilled spirits and wine by the drink shall be \$200.00, and for renewal the fee shall be \$100.00.


**(C) Malt beverage licenses:**


- (1) Brewer’s license, per annum.....\$500.00

- (2) Microbrewery license, per annum.....\$500.00
- (3) Malt beverage distributor's license, per annum.....\$400.00
- (4) Retail malt beverage license, per annum.....\$200.00
- (5) Special temporary retail malt beverage license, per event.....\$25.00
- (6) Malt beverage brew-on-premises license, per annum.....\$100.00

This Ordinance is effective upon publication of this Summary Notice.

Prepared By:

  
LLOYD E. SPEAR, City Attorney  
City of Vanceburg

  
Matt Ginn, Mayor  
City of Vanceburg

Published: June 5, 2018

## CITY OF VANCEBURG, KENTUCKY

### ORDINANCE NO. 410.05D

AN ORDINANCE OF THE CITY OF VANCEBURG, KENTUCKY REPEALING PRIOR ORDINANCE NO. 410.05C AND ADOPTING THE FOLLOWING SET OF REGULATIONS AND REQUIREMENTS FOR ALCOHOL BEVERAGE CONTROL, HEREINAFTER TO BE KNOWN AS THE CITY OF VANCEBURG'S "ALCOHOLIC BEVERAGE CONTROL ORDINANCE"; AND FURTHER ADOPTING ALL APPLICABLE AND REQUIRED KENTUCKY REVISED STATUTES, INCLUDING BUT NOT LIMITED TO KRS CHAPTERS 241 THROUGH 244:

WHEREAS, THE CITY OF VANCEBURG, BY AND THROUGH A MAJORITY OF REGISTERED VOTERS, NOW PERMITS THE PRESENCE OF ALCOHOLIC BEVERAGE MANUFACTURING AND SALES WITHIN THE CORPORATE LIMITS OF THE CITY OF VANCEBURG SO LONG AS SUCH IS DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAW; AND

WHEREAS, THE CITY OF VANCEBURG THEREFORE MUST ESTABLISH UNIFORM REGULATIONS AND REQUIREMENTS FOR THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES, MANUFACTURE AND SALES PURSUANT TO AUTHORIZATION UNDER KRS CHAPTERS 241 THROUGH 244;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF VANCEBURG, KENTUCKY, THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

#### **Chapter 410.00 ALCOHOLIC BEVERAGE CONTROL**

**Chapter 410 of the Codified Ordinances of the City of Vanceburg is hereby repealed and replaced in its entirety as follows:**

##### **Sec. 1.01      SHORT TITLE**

This Ordinance shall be known and may be cited as the Alcoholic Beverage Control Ordinance of the City of Vanceburg.

##### **Sec. 1.02      PURPOSE**

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.

##### **Sec. 1.03      DEFINITIONS**

As used in this chapter, unless the context clearly indicates or requires a different meaning, the

words and terms defined in KRS 241.010 shall apply.

**Sec. 1.04 INCORPORATION OF STATE LAW**

(A) The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapters 241, 242, 243, and 244 pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the alcoholic beverage control law of the City, except as otherwise lawfully provided herein.

(B) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and regulations of the state applicable thereto. Penalty, see Section 5.00.

**Sec 1.05 SCOPE OF COVERAGE**

(A) This chapter shall be construed to apply to the traffic in malt beverages, distilled spirits, and wine where the context permits such applications.

(B) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee, or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinances of the city or of any other statutes of the state relating to violations to alcoholic beverages.

**Chapter 2.00 ADMINISTRATION AND CONTROL**

**Sec. 2.01 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR**

As provided by KRS 241.160, the City of Vanceburg, in which alcoholic beverages are permitted, shall have City Alcoholic Beverage Control (ABC) Administrator. The duties of the City ABC Administrator shall be assigned to the office of the Mayor. The City ABC Administrator may recommend regulations as may be necessary to implement this chapter; any such regulations shall be in writing and shall be presented to the City Council for approval. The Mayor can initially assume the responsibility of the City ABC Administrator; however he/she may designate a person to the position. The City Council establishes the salary of the City ABC Administrator at \$500.00 per month.

**Sec. 2.02 OATH AND BOND OF LOCAL ABC ADMINISTRATOR AND EMPLOYEES**

(A) The City ABC Administrator, before entering upon his duties as such, shall take the oath prescribed in KRS 241.180, and shall execute a bond with a good standing corporate surety in the amount of not less than one thousand dollars (\$1,000.00).

(B) The City ABC Administrator may require any city employee under his supervision to

execute a similar bond in such amount, as he deems necessary.

### **Sec. 2.03      FUNCTIONS, DUTIES, AND POWERS**

(A) The functions of the City ABC Administrator shall be the same with respect to the city license and regulations, as the functions of the Kentucky Alcoholic Beverage Control Board (“Board”) with respect to state licenses and regulations of the ABC Administrator, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until the City Council has first appropriately approved it.

(B) The City ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of city licenses as the State Alcoholic Beverage Control Board has with respect to state licenses under KRS 241.060. The City ABC Administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

### **Sec. 2.04      POLICE POWER**

The City ABC Administrator and his designee shall have the full police powers of law enforcement officers, and their jurisdiction shall be co-extensive with the boundaries of the City. They, along with the City of Vanceburg law enforcement officers, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked, without first obtaining a search warrant. City law enforcement officers shall have full police powers while performing any such inspections.

### **Sec. 2.05      RIGHT OF INSPECTION**

The City ABC Administrator and his designee shall have available at all reasonable times for their inspection all books and records required to be maintained by licensees under KRS 244.150 and the City ABC Administrator shall receive copies of all reports submitted by licensees to the State Alcoholic Beverage Control Board.

### **Sec. 2.06      APPEALS FROM CITY ABC ADMINISTRATOR**

Appeals from the order of the City ABC Administrator may be taken to the state Alcoholic Beverage Control Board by filing with the board, within thirty (30) days, a certified copy of the orders of the City ABC Administrator. The board shall hear matters at issue as an original proceeding.

## **Chapter 3.00      LICENSE AND TAXES**

### **Sec. 3.01      LICENSE REQUIRED FOR SALE**

No person shall sell or dispense at retail, or have in his possession for sale, any alcoholic or malt

beverage, or distilled spirits, or wine, nor manufacture or transport any alcoholic or malt beverage, or distilled spirits, or wine in the City unless he shall first procure and have issued to him a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter.

### **Sec. 3.02 LICENSE FEES**

**(1) PERMITTED LICENSES:** All licenses permitted under Kentucky law for a city shall be allowed and all licenses granted under this chapter shall be approved and issued by the City ABC Administrator.

**(2) PLACE OF FEE PAYMENT:** All fees that are imposed by KRS 243.070 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any City of Vanceburg licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of Vanceburg ABC Administrator and the fees shall be paid when application for a license is made:

#### **(3) REGULATORY LICENSE FEE.**

(A) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee upon the gross receipts of each and every person or entity licensed by the City ABC Administrator. The initial regulatory license fee shall be 2.5% of gross sales of alcoholic beverages.

(B) Payment of such regulatory fees shall be remitted to the City ABC Administrator and shall be held in a separate account maintained for the purposes of fully reimbursing the city for any estimated costs of any policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees or license permitted by law; except that, a credit against a regulatory license fee in the city shall be allowed in any amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070. Payment of the regulatory license fee shall accompany the tax returns approved for such use by the City Council. These returns and payments 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 days of the due date constitutes a violation and subject's licensee to suspension or revocation.

(D) Penalty for failure to file a return and pay quarterly remittance by the due date is 5% of the tax for each 90 days or fraction thereof. The total late filing penalty shall not exceed 25% of the tax; provided, however, that, in no case shall the penalty be less than \$10.

(E) Interest at the rate of 8% per annum will apply to any late payments.

(F) Annually, effective July 1 of each year commencing in 2018, the City Council shall review and establish the regulatory license fee for the ensuing year so as to conform to the requirements of this ordinance and KRS 243.075.

Prior to establishing the subsequent regulatory license fee, the Mayor shall cause the city's auditor to audit the regulatory license fee account to insure compliance with KRS 243.075, and in conjunction with the City Clerk, to recommend, based upon the experience of the prior fiscal year, a fee rate for the ensuing year.

The Auditor shall report his findings to the City Council and in addition to the regulatory license fee, recommend any action he deems necessary to insure compliance with KRS 243.075.

**(4) OTHER LICENSE FEES:**

**(A) Distilled spirit and wine licenses:**

- (1) Wholesaler's distilled spirits and wine license, per annum.....\$3,000.00
- (2) Distilled spirits and wine retail package license, per annum.....\$600.00
- (3) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (4) Distilled spirits and wine special temporary liquor license, per event.....\$100.00
- (5) Special temporary wine license, per event.....\$50.00
- (6) Distilled spirits and wine special temporary auction license, per event.....\$200.00
- (7) Special private club license, per annum.....\$300.00
- (8) Nonresident special agent or solicitor's license, per annum.....\$40.00
- (9) Restaurant wine license, per annum:
  - New applicants.....\$600.00
  - Applicants for renewal.....\$400.00
- (10) Extended hours supplemental license, per annum.....\$200.00

**(B) Caterer's license:**

Caterers may be issued a caterer's license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is

open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer's license as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer's license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer's license) must also obtain a City business license. The annual City fee for a caterer's supplemental license for malt beverages by the drink shall be \$150.00 and for renewal, the fee shall be \$75.00. The annual City fee for a caterer's supplemental license for distilled spirits and wine by the drink shall be \$200.00, and for renewal the fee shall be \$100.00.

**(C) Malt beverage licenses:**

- (1) Brewer's license, per annum.....\$500.00
- (2) Microbrewery license, per annum.....\$500.00
- (3) Malt beverage distributor's license, per annum.....\$400.00
- (4) Retail malt beverage license, per annum.....\$200.00
- (5) Special temporary retail malt beverage license, per event.....\$25.00
- (6) Malt beverage brew-on-premises license, per annum.....\$100.00

**Sec 3.03 DATE LICENSES EXPIRE; PRORATION**

All licenses issued by the City shall be valid for a period of no more than one year. All licenses shall expire on June 30 of each year. Applications for renewal are to be filed with the City at least fifteen (15) days prior to expiration.

When any person applies for a new license he shall be charged 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 (6) months remain before the license is due to be renewed. In the event any licensee shall cease doing business for any reason, no refund of the City license fee shall be granted.

**Sec 3.04 PERSONS WHO MAY NOT BE LICENSED**

A person shall not become a licensee under this chapter for any of the reasons stated in KRS 243.100.

**Sec 3.05 PREMISES THAT MAY NOT BE LICENSED FOR SALES AT RETAIL**

No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in the possession of the premises under

a written lease or a permit for no less than the license period.

**Sec 3.06            BUSINESSES AUTHORIZED BY RETAIL DRINK LICENSE**

A limited restaurant alcoholic beverage by the drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers.

**Sec 3.07            PUBLIC NOTICE OF INTENT TO APPLY FOR LICENSE**

Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for a supplemental bar license shall before applying for a license advertise, by publication in the Lewis County Herald, his or her intention to apply for a license as stipulated in KRS 243.360. The advertisement shall meet the following requirements:

(1) The advertisement shall state the names and addresses of the members of the partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and address of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170 424. 130.

**Sec 3.08            LOCAL ADMINISTRATOR TO FIRST APPROVE APPLICATION**

An applicant for an alcoholic beverage license must have his city license approved by the City ABC Administrator before they are eligible to apply for a state license.

**Sec 3.09            APPLICATION FOR STATE LICENSE**

All applicants for alcoholic beverage licenses must submit an application to the state as stipulated in KRS 243.380.

**Sec 3.10            SUBMITTAL OF APPLICATION**

(A) An applicant for a license under this chapter shall file with the City ABC Administrator a copy of his state license application containing the information required by KRS 243.380 and 243.390. The City application shall include the consent of the applicant permitting the City ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened

by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the City ABC Administrator within thirty-six (36) hours.

(B) All licenses granted under this Ordinance shall be approved by the City ABC 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 of Vanceburg, as amended and supplemented from time to time.

(C) 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 of Vanceburg, 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 a Vanceburg resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this ordinance;
- (7) Extent of stock ownership; and
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

(D) Each application shall be accompanied by a certified check, money order, or cash for the license fee.

(E) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(F) All City licenses shall be in such form as may be prescribed by the City 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) The expiration date of the license; and
- (7) 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.

(G) All licenses approved by the City ABC Administrator and issued by the City of Vanceburg shall begin on July 1 of any year and shall expire on June 30 of the following year.

(H) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

**Sec 3.11 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE;  
SUSPENSION OR REVOCATION OF LICENSE**

(A) State Law References. Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490, 243.500, as well as violation of any city ordinance regarding alcoholic beverage licensing, sales, or the administration of licenses.

(B) Delinquent taxes or fees. No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due to the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The City ABC Administrator may, in his discretion, approve a license to sell after receiving from the City Clerk a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Clerk for payment of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees which are due and payable by the licensee.

(C) Appeals. Appeals may be taken from decisions of the City ABC Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

**Sec 3.12 APPROVAL OR DENIAL OF APPLICATION**

(A) If upon review of the application, the City ABC Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220 and 242.185(6), that a license may be issued

within the rules fixed by the State Alcoholic Beverage Control Board, and that there are no causes for denial of the license, the City ABC Administrator shall approve the application.

(B) If the City ABC Administrator has reasonable grounds to believe that an applicant has violated any law, rule, or regulation relating to alcoholic beverages, he may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should be issued. The City ABC Administrator shall have the right to order, and the applicant shall have the right to request, an evidentiary hearing to examine the violation set forth in the show cause order issued by the City ABC Administrator. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided by law.

### **Sec. 3.13 PAYMENT OF FEES, REFUND OF FEES**

Upon approval of the application by the City ABC Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order, or cash. Payment shall be held on deposit by the City pending state license approval and issuance of the City license by the City ABC Administrator. If payment of a license fee was erroneously made or the licenses are not issued, the City shall authorize the payment of the refundable amount.

### **Sec. 3.14 ISSUANCE OF CITY LICENSES**

The City licenses shall be issued and the fees collected by the City Clerk. No license shall be issued by the City Clerk without the approval of the City ABC Administrator. The license shall be in the form of a standard City Business License and a business license category is hereby established of an Alcoholic Beverage Control License. The fees shall be those established in Section 3.02 of this chapter and shall not replace the standard business license fees required.

### **Sec. 3.15 POSTING OF LICENSES**

The licensee, before commencing any business for which a license has been issued, shall post and thereafter display the license 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 shall 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 the 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.

Each license in the same form prescribed by KRS 243.440 for state licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate or facsimile of each city license shall remain in the City Clerk's office as part of the public record.

### **Sec. 3.16 TRANSFER, ASSIGN, OR ACQUIRE EXISTING LICENSE**

The transfer, assignment, or acquisition of a city license shall be the same as provided for in state

licenses in KRS 243.630, 243.650, and 243.660.

**Sec. 3.17      APPLICANT TO PAY FOR OWN LICENSE**

The license fee for a city license shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued under these sections.

**Sec. 3.18      DEPOSIT OF FEES**

All monies derived from license fees or from fines as provided in this chapter shall be paid to the treasury of the City and become a part of the general funds of the City.

**Sec. 3.19      LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL**

(A) Surrender of license and exceptions. Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the City ABC Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, as amended from time to time, to control such license in dormancy. In the event a period of dormancy is applied for and granted by the ABC Administrator to the licensee, the licensee shall immediately notify the City ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City ABC Administrator and a fee shall be due and payable to the City for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(B) Applications approved by the City ABC Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premise involved. The City ABC Administrator may grant extensions, as he deems appropriate in exercise of his sound discretion, based on facts and circumstances surrounding each request.

(C) Renewals: Time for Filing. All renewal of licenses and payment of license fees must be on file with the City ABC Administrator fifteen (15) days before the expiration of the license for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement fifteen (15) days prior to the expiration date of the license, setting forth the facts justifying an extension. The City ABC Administrator may then extend the time for filing of a renewal of license for a reasonable length of time within the exercise of his sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at or before the end of the extension period.

**Sec. 3.20 APPROVAL OF PREMISES**

The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until said applicant and his place of business shall have been approved by the city building inspector and/or Zoning Administration, and any and all other inspections required by applicable law.

**Chapter 4.00 PROHIBITIONS, RESTRICTIONS, AND REGULATIONS**

**Sec. 4.01 HOURS OF SALE**

(A) Retail sale for Consumption on Licensed Premises. Premises for which there has been granted a license for the retail sales of alcoholic beverages by the drink shall be permitted to remain open between the hours of 6:00 a.m. and may not continue after midnight for Monday through Thursday and may not continue after 1:00 a.m. of the following mornings for Friday and Saturday. Consumption of alcoholic beverages may not continue for more than thirty (30) minutes after the respective hours set forth in this section.

(B) Control of Premises During Closing Hours. During the closing hours, the premises of any license for the sale of alcoholic beverages by the drink must be closed to and vacant of all customers and all persons except the licensee and his employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purposes.

**Sec. 4.02 HOURS OF SALE, EXCEPTION FOR FOOD SALES; REQUIREMENTS**

The licensee shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.

**Sec. 4.03 FOOD SERVICE REQUIREMENTS**

All license holders of a Limited Restaurant Alcoholic Beverage By The Drink License shall be required to maintain food service during all hours that alcohol is served.

**Sec. 4.04 LICENSE REVOCATION/SUSPENSION AND CONFISCATION  
AUTHORIZED IF VIOLATIONS OCCUR**

If any alcoholic or malt beverages are found on the outside of the locked or closed off area of any licensed premises at any hours during which the licensee is prohibited by the State Alcoholic Beverage Control Act or by this ordinance from selling alcoholic or malt beverages, or if any

alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act, same shall be grounds for revocation or suspension of the license. In addition to other penalties provided for violation of this chapter, the City ABC Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

**Sec. 405      ADVERTISING RESTRICTIONS**

(A) Signage which refers directly, or indirectly, to alcoholic beverages shall be limited to one (1) two square foot (2 sq. ft.) sign, for each fifty (50) square feet of glass window, which must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters, or other type of display advertising which refers either directly, or indirectly, to alcoholic beverages shall be displayed on, or shall be visible from, the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. The restriction shall not prevent any licensee from placing in the windows of the licensed premises business price cards not larger than two and one-half (2½) inches in size, setting forth the price at which he offers alcoholic beverages for sale.

(B) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(C) It shall be unlawful for any licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium for advertising alcoholic beverages.

(D) It shall be unlawful for any person holding a license under this chapter to sell 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 connection with the sale of alcoholic beverages.

(E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

**Sec. 4.06      TREATING PROHIBITED**

No license holder shall give away any alcoholic beverage in any quantity for less than a full monetary consideration.

**Sec. 4.07      LICENSEE TO PURCHASE FROM AND SELL ONLY TO PERSONS  
AUTHORIZED TO SELL OR PURCHASE**

(A) No licensee shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder of a special agents or solicitors license if such a license is required.

(B) No licensee shall sell, or agree to sell, any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any

person who is not the holder of a special agents or solicitors license.

**Sec. 4.08      RETAIL SALES TO CERTAIN PERSONS PROHIBITED**

No retail licensee shall sell, give away or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away or delivered to:

(A) A minor, except that in any prosecution for selling alcoholic beverages to a minor it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. The evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) A person actually or apparently under the Influence of alcoholic beverages.

(C) A habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Except as provided in Section C above, anyone known to the seller to have been convicted of D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or for a felony, within the preceding twelve (12) months.

**Sec. 4.09      LICENSEE TO DISPLAY NOTICE AS TO THE SALE TO MINORS:  
WARNING OF DANGERS OF DRINKING DURING PREGNANCY TO  
BE POSTED**

(A) Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows:

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100) 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 purpose of purchasing or obtaining alcoholic beverages.

(B) All licensed retail vendors of alcoholic beverages shall post in prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches 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.

**Sec. 4.10        MINORS NOT TO POSSESS OR PURCHASE LIQUOR TO  
                     MISREPRESENT AGE - USE OF FRAUDULENT IDENTIFICATION**

(A) As used in KRS 244.083 and this section, Premises has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages.

(B) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing any alcoholic beverages.

(C) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(D) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensed agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(E) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

**Sec. 4.11        PERSONS WHO LICENSEES MAY NOT EMPLOY**

(A) A person holding any city license shall not 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, unless the person is employed in a capacity that does not involve the sale or serving of alcoholic beverages.

(4) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(B) The provisions of paragraph (1) and (2) of subsection (A) of this section shall not apply if the employee's duties do not involve the sale, delivery, or traffic in alcoholic beverages at the licensed premises.

(C) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation or suspension of license.

**Sec. 4.12 RETAIL PREMISES NOT TO BE DISORDERLY**

(A) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.

(B) Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk thereof through:

- (1) Engaging in fighting or in violent, tumultuous, or threatening behavior; or
- (2) Making unreasonable noise; or
- (3) Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to fire, hazard, or other emergency; or
- (4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or
- (5) Conducting promotional efforts that are not customary or usual for a restaurant operation (e.g., wet t-shirt contest).

(C) No person licensed to sell alcoholic beverages at retail shall cause, allow or permit dancing or karaoke singing or pool tables on the premises which holds a city license.

(D) 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, unless otherwise authorized by the Commonwealth of Kentucky.

(E) 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 addition to other penalties provided for the violation of this section, the City Chief of Police or the City ABC Administrator, or a designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(F) 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 premises. Security standards include such means as are necessary to discourage unlawful activity in and around the licensed premises.

## **Chapter 5.00 ENFORCEMENT**

Vanceburg City police officers and the City ABC Administrator are authorized to enforce this ordinance for alleged violations.

### **Sec. 5.01 INVESTIGATION AND INSPECTION OF PREMISES**

The City ABC Administrator and any investigator acting under the authority of the City ABC Administrator shall have the full police powers of peace officers within boundaries of the City of Vanceburg. They, along with any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked, without first obtaining a search warrant.

### **Sec. 5.02 PENALTIES FOR VIOLATIONS OF CHAPTER 5**

The following penalties shall be in addition to any criminal prosecution instituted in Lewis County courts against an alleged violator and fines hereunder shall be payable to the City ABC Administrator.

The City ABC Administrator may assess a fine of not more than five hundred dollars (\$500.00) per violation. The payment of said fine shall be transmitted to the City Treasurer 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 One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than three (3) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$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, limited liability company, joint stock company, or association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

## **Chapter 6.00 IMPLEMENTATION OF ORDINANCE PROVISIONS**

From time to time, the Vanceburg City Council may by resolution or order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this ordinance

### **Sec 6.01 SEVERABILITY**

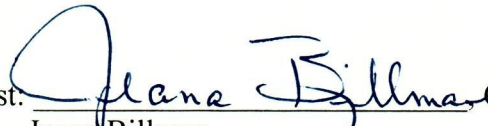
If any section, sentence, clause, or portion of this ordinance is for any reason declared illegal, unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

Where appropriate as used herein, the masculine shall include the feminine, the singular the plural, and vice versa.

This ordinance shall be effective immediately upon publication. Ordinances No. 410.05, No. 410.05A, No. 410.05B, and 410.05C are hereby repealed, and any other ordinances or parts of ordinances in conflict herewith are hereby repealed.



\_\_\_\_\_  
Matt Ginn, Mayor

Attest:  City Clerk  
Jeana Billman

First Reading: 5/07/18

Second Reading: 5/21/18

Date Published: 6/5/18

## **CITY OF VANCEBURG, KENTUCKY**

### **ORDINANCE NO. 410.05B**

AN ORDINANCE TO THE CITY OF VANCEBURG, KENTUCKY, ADOPTING IN THE FOLLOWING SET OF REGULATIONS AND REQUIRMENTS FOR ALCOHOL BEVERAGE CONTROL, HEREINAFTER TO BE KNOWN AS THE CITY OF VANCEBURG'S "ALCOHOLIC BEVERAGE CONTROL ORDINANCE"; AND FURTHER ADOPTING ALL APPLICABLE AND REQUIRED KRS, INCLUDING BUT NOT LIMITED TO, KRS CHAPTERS 241 THROUGH 244; AND

WHEREAS, THE CITY OF VANCEBURG, BY AND THROUGH A MAJORITY OF REGISTERED VOTERS, NOW PERMITS THE PRESENCE OF ALCOHOL, MANUFACTURING, AND SALES WITHIN THE CORPORATE LIMITS OF THE CITY OF VANCEBURG SO LONG AS SUCH IS DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAW; AND

WHEREAS, THE CITY OF VANCEBURG THEREFORE MUST ESTABLISH UNIFORM REGULATIONS AND REQUIREMENTS FOR THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES, MANUFACTURE, AND SALES PURSUANT TO AUTHORIZATION UNDER KRS CHAPTERS 241 THROUGH 244;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF VANCEBURG, KENTUCKY, THAT THE FOLLOWING REGULATIONS AND REQUIREMENTS ARE HEREBY ADOPTED AS SET FORTH BELOW:

#### **Chapter 410.00 ALCOHOLIC BEVERAGE CONTROL**

**Chapter 410 of the Codified Ordinances of the City of Vanceburg is hereby repealed and replaced in its entirety as follows:**

##### **Sec. 1.01      SHORT TITLE**

This Ordinance shall be known and may be cited as the Alcoholic Beverage Ordinance of the City of Vanceburg.

##### **Sec. 1.02      PURPOSE**

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.

##### **Sec. 1.03      DEFINITIONS**

As used in this chapter, unless the context clearly indicates or requires a different meaning, the words and terms defined in Kentucky Revised Statute 241.010 shall apply.

**Sec. 1.04      INCORPORATION OF STATE LAW**

(A) The provisions of the State Alcoholic Beverage Control laws contained in KRS Chapters 241, 242, 243, and 244 pertaining to licenses and regulations of the State Alcoholic Beverage Control Board, including definitions contained therein, as well as amendments and supplements thereto, are hereby adopted as part of the alcoholic beverage control law of the City, except as otherwise lawfully provided herein.

(B) No person shall sell, deal in, barter or exchange or possess for sale, or for the purpose of evading any law or ordinance, give away any alcoholic beverage in any quantity whatever, or cause the same to be done, without complying with all of the provisions of this chapter and all statutes and regulations of the state applicable thereto. Penalty, see Section 5.00.

**Sec 1.05      SCOPE OF COVERAGE**

(A) This chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such applications.

(B) Nothing contained in this chapter shall excuse or relieve the owner, proprietor, employee, or person in charge of any licensed premises in the city, where alcoholic beverages are sold, from the restrictions, requirements and penalties of any other ordinances of the city or of any other statutes of the state relating to violations to alcoholic beverages.

**Chapter 2.00      ADMINISTRATION AND CONTROL**

**Sec. 2.01      ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR**

As provided by KRS 241.160, cities of first, second, third, and fourth class in which alcoholic beverages are permitted shall have City Alcoholic Beverage Control (ABC) Administrators. The duties of the ABC administrator shall be assigned to the office of the Mayor. The local ABC administrator may recommend regulations as may be necessary to implement this chapter; any such regulations shall be in writing and shall be presented to the City Council for approval. The Mayor can initially assume the responsibility of the ABC administrator however he/she may designate a person to the position. The City Council will determine the salary of the ABC administrator.

**Sec. 2.02      OATH AND BOND OF LOCAL ABC ADMINISTRATOR AND EMPLOYEES**

(A) The ABC administrator before entering upon his duties as such, shall take the oath prescribed in KRS 241.180, and shall execute a bond with a good standing corporate surety in the amount of not less than one thousand dollars, (\$1,000.00).

(B) The ABC administrator may require any city employee under his supervision to execute a similar bond in such amount, as he deems necessary.

**Sec. 2.03      FUNCTIONS, DUTIES AND POWERS**

(A) The functions of the City ABC Administrator shall be the same with respect to the city license and regulations, as the functions of the Kentucky Alcoholic Beverage Control Board ("Board") with respect to state licenses and regulations of the ABC Administrator, except that no amendment to these regulations proposed by the City ABC Administrator may be less stringent than the statutes relating to Alcoholic Beverage Control, or than regulations of the ABC Board. No regulation of the City ABC Administrator shall become effective until the City Council has first appropriately approved it.

(B) The ABC Administrator shall have the same powers and duties with respect to suspension and revocation for cause of city licenses as the State Alcoholic Beverage Control Board has with respect to state licenses under KRS 241.060. The ABC administrator, on his own initiative or on the complaint of any person, may institute proceedings to revoke or suspend any license issued under this chapter.

**Sec. 2.04 POLICE POWER**

The City ABC Administrator and his designee shall have the full police powers of law enforcement officers, and their jurisdiction shall be co-extensive with the boundaries of the City. They, along with the City of Vanceburg law enforcement officer, may inspect any premises where alcoholic or malt beverages are sold, stored or otherwise trafficked, without first obtaining a search warrant. City law enforcement officers shall have full police powers while performing any such inspections.

**Sec. 2.05 RIGHT OF INSPECTION**

The City ABC Administrator and his designee shall have available at all reasonable times for their inspection all books and records required to be maintained by licenses under KRS 244.150 and the City ABC Administrator shall receive copies of all reports submitted by licensee to the State Alcoholic Beverage Control Board.

**Sec. 2.06 APPEALS FROM CITY ABC ADMINISTRATOR**

Appeals from the order of the City ABC Administrator may be taken to the state Alcoholic Beverage Control Board by filing with the board, within thirty (30) days, a certified copy of the orders of the City ABC Administrator. The board shall hear matters at issue as original proceeding.

**Chapter 3.00 LICENSE AND TAXES**

**Sec. 3.01 LICENSE REQUIRED FOR SALE**

No person shall see or dispense at retail, or have in his possession for sale, any alcoholic or malt beverage, nor manufacture or transport any alcoholic or malt beverage in the City unless he shall first procure and have issued to him a license under the provisions of this chapter and all statutes of Kentucky and regulations adopted pursuant to this chapter.

**Sec. 3.02 LICENSE FEES**

All licenses permitted under Kentucky law for a city with a population of the fourth class shall be allowed and all licenses granted under this chapter shall be approved and issued by the City of Vanceburg ABC Administrator.

All fees that are imposed by KRS 243.070 are to be paid to the Kentucky ABC. In addition to those fees paid to the Kentucky ABC, any licensee engaged in the sale, possession, or distribution of spirituous, vinous, or malt liquors, or operating a brew-on-premises establishment, shall pay the following fees to the City of Vanceburg ABC Administrator and the fees shall be paid when application for a license is made:

**(A) Distilled spirit and wine licenses:**

- (1) Wholesaler's distilled spirits and wine license, per annum ..... \$3,000.00
- (2) Distilled spirits and wine retail package license, per annum..... \$600.00
- (3) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
  - New applicants ..... \$600.00
  - Applicants for renewal ..... \$400.00
- (4) Distilled spirits and wine special temporary liquor license, per event..... \$100.00
- (5) Special temporary wine license, per event ..... \$50.00
- (6) Distilled spirits and wine special temporary auction license, per event..... \$200.00
- (7) Special private club license, per annum ..... \$300.00
- (8) Nonresident special agent or solicitor's license, per annum ..... \$40.00
- (9) Restaurant wine license, per annum:
  - New applicants ..... \$600.00
  - Applicants for renewal ..... \$400.00
- (10) Extended hours supplemental license, per annum ..... \$200.00

**(B) Caterer's license:**

Caterers may be issued a caterer's license as a supplementary license, provided that the caterer holds a retail package liquor license or a distilled spirits and wine by the drink license or a limited restaurant license. See KRS 243.033(1). Owners and/or operators of a restaurant which is open to the public and which does not have a retail package liquor license or a distilled spirits and wine by the drink retail license or a malt beverage license or a limited restaurant license shall not qualify for a caterer's license

as a primary license. See KRS 243.033(2). No publication is required for a supplemental caterer's license. See KRS 243.033(1). However, an application must be filed with and approved by the City ABC Administrator. All approved applicants (whether for an alcoholic beverage license or a supplemental caterer's license) must also obtain a City business license. The annual City fee for a caterer's supplemental license for malt beverages by the drink shall be \$150.00 and for renewal, the fee shall be \$75.00. The annual City fee for a caterer's supplemental license for distilled spirits and wine by the drink shall be \$200.00 and for renewal, the fee shall be \$100.00.

**(C) Malt beverage licenses:**

- (1) Brewer's license, per annum ..... \$500.00
- (2) Microbrewery license, per annum ..... \$500.00
- (3) Malt beverage distributor's license, per annum ..... \$400.00
- (4) Retail malt beverage license, per annum ..... \$200.00
- (5) Special temporary retail malt beverage license, per event ..... \$25.00
- (6) Malt beverage brew-on-premises license, per annum ..... \$100.00

**Sec 3.03      DATE LICENSES EXPIRE; PRORATION**

All licenses issued by the City shall be valid for a period of no more than one year. All licenses shall expire on April 30 of each year. Applications for renewal are to be filed with the City at least fifteen (15) days prior to expiration.

When any person applies for a new license he shall be charged 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 (6) months remain before the license is due to be renewed. In the event any licensee shall cease doing business for any reason, no refund of the City license fee shall be granted.

**Sec 3.04      PERSONS WHO MAY NOT BE LICENSED**

A person shall not become a licensee under this chapter for any of the reasons stated in the KRS 243.100.

**Sec 3.05      PREMISES THAT MAY NOT BE LICENSED FOR SALES AT RETAIL**

No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in the possession of the premises under a written lease or a permit for no less than the license period.

**Sec 3.06      BUSINESSES AUTHORIZED BY RETAIL DRINK LICENSE**

A limited restaurant alcoholic beverage by the drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers.

**Sec 3.07 PUBLIC NOTICE OF INTENT TO APPLY FOR LICENSE**

Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for a supplemental bar license shall before applying for a license advertise, by publication in the Lewis County Herald, his or her intention to apply for a license as stipulated in KRS 243.360. The advertisement shall meet the following requirements:

- (1) The advertisement shall state the name and addresses of the members of the partnership if the applicant is a partnership, as well as the name of the business and its address, or if the applicant is a corporation, the names and addresses of the principal office and directors of the corporation, as well as the name and addresses of the corporation itself, the location of the premises for which the license is sought, and the type of license for which application is made.
- (2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication as provided in KRS 424.170 424.130.

**Sec 3.08 LOCAL ADMINISTRATOR TO FIRST APPROVE APPLICATION**

An applicant for an alcoholic beverage license must have his city license approved by the City Alcoholic Beverage Control Administrator before they are eligible to apply for a state license.

**Sec 3.09 APPLICATION FOR STATE LICENSE**

All applications for alcoholic beverage licenses must submit an application to the state as stipulated in KRS 243.380.

**Sec 3.10 SUBMITTAL OF APPLICATION**

(A) An applicant for a license under this chapter shall file with the City Alcoholic Beverage Control Administrator a copy of his state license application containing the information required by KRS 243.380 and 243.390. The City application shall include the consent of the applicant permitting the City ABC Administrator to inspect and search the licensed premises at any reasonable time, to confiscate articles found on the premises in violation of any ordinance or statute, and to order an emergency temporary closure of the premises if the public health, safety, morals and welfare is threatened by one or more violations of any ordinance or statute involving disturbance of the peace or public disorder. The temporary closure shall remain in effect until review of the alleged violations by the City ABC Administrator within thirty-six (36) hours.

(B) All licenses granted under this Ordinance shall be approved by the City ABC 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 of Vanceburg, as amended and supplemented from time to time.

(C) 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 of Vanceburg, 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 a Vanceburg resident, indicate when residence was established;
- (6) Whether or not he or she has any interest in any other license or corporation or partnership holding a license under this ordinance;
- (7) Extent of stock ownership;
- (8) Whether or not he or she has any interest in any license or corporation or partnership holding a license in any other state or province.

(D) Each application shall be accompanied by a certified check, cash or a postal or express money order for the license fee.

(E) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator.

(F) All City licenses shall be in such form as may be prescribed by the City 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) The expiration date of the license;

(7) 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.

(G) All licenses approved by the City ABC Administrator and issued by the City of Vanceburg shall begin on May 1 of any year and shall expire on April 30 of the following year.

(H) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

**Sec 3.11 CAUSES FOR REFUSAL TO ISSUE OR RENEW LICENSE; SUSPENSION OR REVOCATION OF LICENSE**

(A) State Law References. Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490, 243.500, as well as violation of any city ordinance regarding beverage licensing, sales, or the administration of licenses.

(B) Delinquent taxes or fees. No license to sell alcoholic or malt beverages shall be granted or renewed to any person who is delinquent in the payment of any taxes or fees due to the City at the time of issuing the license; nor shall any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any delinquent taxes or fees due the City. If a licensee becomes delinquent in the payment of any taxes or any fees due the City at any time during the license period, the license to sell alcoholic or malt beverages shall be subject to revocation or suspension. The City ABC Administrator may, in his discretion, approve a license to sell after receiving from the City Clerk, a written statement to the effect that the applicant for the license has paid or has made satisfactory arrangements with the City Clerk for taking care of the indebtedness represented by the unpaid and delinquent taxes or fees. This section shall apply only to taxes and fees, which are due and payable by the licensee.

(C) Appeals. Appeals may be taken from decisions of the City ABC Administrator to the State Alcoholic Beverage Control Board according to the provisions of KRS 241.200 and 243.550.

**Sec 3.12 APPROVAL OR DENIAL OF APPLICATION**

(A) If upon review of the application, the City ABC Administrator determines that the applicant has complied with all requirements of the Alcoholic Beverage Control Law, as well as all regulatory provisions of this chapter, that the location is one that can be approved, including but not limited to the requirements of KRS 243.220 and 242.185(6), that a license may be issued within the rules fixed by the State Alcoholic Beverage Control Board, and that there are no causes for denial of the license, the City ABC Administrator shall approve the application.

(B) If the City ABC Administrator has reasonable grounds to believe that an applicant has violated any law, rule or regulation relating to alcoholic beverages, he may issue to the applicant a written order setting forth such violation and requiring the applicant to show cause why the requested license should

be issued. The City ABC Administrator shall have the right to order, and the applicant shall have the right to request, and evidentiary hearing to examine the violation set forth in the show cause order issued by the City ABC Administrator. Any decision by the City ABC Administrator on the application shall be subject to appeal as provided by law.

**Sec. 3.13 PAYMENT OF FEES, REFUND OF FEES**

Upon approval of the application by the City ABC Administrator, the applicant shall pay the amount of the license fee provided in this chapter in the form of a certified check, money order, or cash. Payment shall be held in deposit by the City pending state license approval and issuance of the City license by the City ABC Administrator. If payment of a license fee was erroneously made or the licenses are not issued, the City shall authorize the payment of the refundable amount.

**Sec. 3.14 ISSUANCE OF CITY LICENSES**

The City Licenses shall be issued and the fees collected by the City Clerk. No license shall be issued by the clerk without the approval of the City ABC Administrator. The license shall be in the form of a standard City Business License and a business license category shall hereby be established as an Alcoholic Beverage Control License. The fees shall be those established in Section 3.02 of this chapter and shall not replace the standard business license fees required.

**Sec. 3.15 POSTING OF LICENSES**

The licensee, before commencing any business for which a license has been issued, shall post and display at all times a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place shall 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 the 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.

Each license in the same form prescribed by KRS 243.440 for state licenses shall be posted at the licensed premises in the same manner prescribed by KRS 243.620 for state licenses. An exact duplicate or facsimile of each city license shall remain in the City Clerk's office as part of the public record.

**Sec. 3.16 TRANSFER, ASSIGN, OR ACQUIRE EXISTING LICENSE**

The transfer, assigning or acquisition of city license shall be the same as provided for in state licenses in KRS 243.630, 243.650, and 243.660.

**Sec. 3.17 APPLICANT TO PAY FOR OWN LICENSE**

The license fee for a city license shall be payable by the person who makes application for the license and to whom it is issued, and no other person shall pay for any license issued under these sections.

**Sec. 3.18 DEPOSIT OF FEES**

All moneys derived from license fees or from fines as provided in this chapter shall be paid to the treasury of the City and become a part of the general funds of the City.

**Sec. 3.19 LICENSE TO BECOME VOID IF BUSINESS DORMANT; LICENSE RENEWAL**

(A) Surrender of license and exceptions. Any license under which no business is transacted during a period of ninety (90) days shall become null and void. At the expiration of the ninety (90) day period the license shall be surrendered to the City ABC Administrator, except that any licensee who is unable to continue in business at the licensed premises may apply to the Commonwealth of Kentucky Alcoholic Beverage Control Department, pursuant to 804 KAR 4:1110, as amended, from time to time to control such license in dormancy. In the event a period of dormancy is applied for or granted by the ABC Administrator to the licensee, the licensee shall immediately notify the City ABC Administrator. Upon resumption of business or transfer or assignment of the license, the licensee shall notify the City ABC Administrator and a fee shall be due and payable to the City for the period the license was in dormancy in the same amount due had the license remained active for the same period.

(B) Applications approved by the City ABC Administrator and based on pending construction or development on the premises shall be null and void after ninety (90) days of the commitment to issue a license if the applicant fails to proceed in an orderly fashion to initiate construction or development on the premise involved. The City ABC Administrator may grant extensions, as he deems appropriate in exercise of his sound discretion based on facts and circumstances surrounding each request.

(C) Renewals: Time for filing. All renewal of licenses and payment of license fees must be on file with the City ABC Administrator fifteen (15) days before the expiration of the license for the preceding license period or the license shall be canceled, except that the licensee may file a written, verified statement fifteen (15) days prior to the expiration date of the license, setting forth the facts justifying an extension. The City ABC Administrator may then extend the time for filing of a renewal of license for a reasonable length of time within the exercise of his sound discretion. The licensee shall pay the license fee from the expiration date of the former license or licenses and payment shall be refunded to the licensee in the event that the license or licenses are not renewed at, or before, the end of the extension period.

**Sec. 3.20 APPROVAL OF PREMISES**

The City ABC Administrator shall not grant any alcoholic beverage license or approved a renewal of a license until said applicant and his place of business shall have been approved by the city building inspector and/or Zoning Administration, and any and all other inspections required by the Kentucky Building Code.

**Chapter 4.00 PROHIBITIONS, RESTRICTIONS, AND REGULATIONS**

**Sec. 4.01 HOURS OF SALE**

(A) Retail sale for Consumption on Licensed Premises. Premises for which there had been granted a license for the retail sales of alcoholic beverages by the drink, shall be permitted to remain open between the hours of 6:00 a.m. and may not continue after midnight for Monday through Thursday and

may not continue after 1:00 A.M. of the following mornings for Friday and Saturday. Consumption of alcoholic beverages may not continue for more than thirty (30) minutes after the respective hours set forth in this section.

(B) Control of Premises During Closing Hours. During the closing hours, the premises of any license for the sale of alcoholic beverages by the drink must be closed to and vacant of all customers and all persons except the licensee and his employees, who shall be allowed on the premises for business purposes only. Alcoholic beverages shall not be sold, given away, delivered or consumed by anyone in any room of the premises during the closing hours and no parties, private or public, shall be held on the premises. The premises shall not be loaned, rented or leased to anyone during closing hours for a party or for any other purposes.

**Sec. 4.02 HOURS OF SALE; EXCEPTIONS; REQUIREMENTS**

The licensee shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.

**Sec. 4.03 FOOD SERVICE REQUIREMENTS**

All license holders of a Limited Restaurant Alcoholic Beverage By The Drink License shall be required to maintain food service during all hours that alcohol is served.

**Sec. 4.04 CONFISCATION AUTHORIZED IF VIOLATIONS OCCUR**

If any alcoholic or malt beverages are found on the outside of the locked or closed off area of any licensed premises at any hours during which the licensee is prohibited by the State Alcoholic Beverage Control Act or by this ordinance from selling alcoholic or malt beverages were kept outside the locked or closed-off section for the purpose of sale in violation of this chapter and the State Alcoholic Beverage Control Act and shall be grounds for revocation or suspension of the license. In addition to other penalties provided for violation of this chapter, the City Alcoholic Beverage Control Administrator is hereby authorized to confiscate the alcoholic or malt beverages.

**Sec. 4.05 ADVERTISING RESTRICTIONS**

(A) Signage which refers directly, or indirectly, to alcoholic beverages shall be limited to one (1) two (2) square foot sign, for each fifty (50) square feet of glass window, that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters, or other type of display advertising which refers either directly, or indirectly, to alcoholic beverages shall be displayed on, nor shall it be visible from, the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. The restriction shall not prevent any licensee from placing in the windows of the licensed premises business price cards not larger than two and one-half (2 ½) inches in size, setting forth the price at which he offers alcoholic beverages for sale.

(B) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(C) It shall be unlawful for all licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium for advertising alcoholic beverages.

(D) It shall be unlawful for any person, holding a license under this chapter to sell 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 connection with the sale of alcoholic beverages.

(E) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130.

**Sec. 4.06        TREATING PROHIBITED**

No license holder shall give away any alcoholic beverage in any quantity for less than a full monetary consideration.

**Sec. 4.07        LICENSEE TO PURCHASE FROM AND SELL ONLY TO PERSONS AUTHORIZED TO SELL OR PURCHASE**

(A) No licensee shall purchase or agree to purchase any alcoholic beverages from any person within or without this state, who is not licensed to sell the beverages to the particular purchaser at the time of the agreement to sell, nor give any order for any alcoholic beverages to any person who is not a holder or a special agents or solicitors license if such a license is required.

(B) No licensee shall sell, or agree to sell, any alcoholic beverage to any person within or without this state who is not legally authorized to buy and receive the beverages at the time of the agreement to sell, nor secure any order for the sale of any alcoholic beverages through any person who is not the holder of a special agents or solicitors license.

**Sec. 4.08        RETAIL SALES TO CERTAIN PERSONS PROHIBITED**

No retail licensee shall sell, give away or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away or delivered to:

(A) A minor, except that in any prosecution for selling alcoholic beverages to a minor it is an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchasers appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. The evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

(B) A person actually or apparently under the influence of alcoholic beverages.

(C) A habitual drunkard or any person convicted of drunkenness as many as three (3) times within the most recent twelve (12) month period.

(D) Except as provided in Section C above, anyone known to the seller to have been convicted or D.U.I. or any other misdemeanor attributable directly or indirectly to the use of alcoholic beverages, or for a felony within the preceding twelve (12) months.

**Sec. 4.09 LICENSEE TO DISPLAY NOTICE AS TO THE SALE TO MINORS: WARNING OF DANGERS OF DRINKING DURING PREGNANCY TO BE POSTED**

(A) Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in thirty (30) point or larger type, substantially as follows:

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100) 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 purpose of purchasing or obtaining alcoholic beverages.

(B) All licensed retail vendors of alcoholic beverages shall post in prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches 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.

**Sec. 4.10 MINORS NOT TO POSSESS OR PURCHASE LIQUOR TO MISREPRESENT AGE – USE OF FRAUDULENT IDENTIFICATION**

(A) As used in KRS 244.083 and this section, Premises has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages.

(B) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing any alcoholic beverages.

(C) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(D) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensed agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(E) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

**Sec. 4.11 PERSONS WHO LICENSEES MAY NOT EMPLOY**

(A) A person holding any city license shall not 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, unless the person is employed in a capacity that does not involve the sale or serving of alcoholic beverages.
- (4) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(B) The provisions of paragraph (1) and (2) or subsection (A) of this section shall not apply if the employees duties do not involve the sale, delivery, or traffic in alcoholic beverages at the licensed premises.

(C) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

**Sec. 4.12 RETAIL PREMISES NOT TO BE DISORDERLY**

(A) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly.

(B) Acts which constitute disorderly premises, consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:

- (1) Engaging in fighting or in violent, tumultuous or threatening behavior, or
- (2) Making unreasonable noise, or
- (3) Refusing to obey any official order to disperse issued to maintain public safety in dangerous proximity to fire, hazard, or other emergency; or
- (4) Creating a hazardous or physically offensive condition by an act that serves no legitimate purpose; or

(5) Conducting promotional efforts that are not customary or usual for a restaurant operation (e. g. wet t-shirt contest).

(C) No person licensed to sell alcoholic beverages at retail shall cause, allow or permit dancing or karaoke singing or pool tables on the premises which holds a city license.

(D) 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.

(E) 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 addition to other penalties provided for the violation of this section, the Chief of Police or the City ABC Administrator, or his designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(F) 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 licenses premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

**Chapter 5.00 ENFORCEMENT**

Vanceburg City police officers and the City ABC Administrator are authorized to enforce this Ordinance for alleged violations.

**Sec. 5.01 INVESTIGATION AND INSPECTION OF PREMISES**

The City ABC Administrator and any investigator acting under the authority of the City ABC Administrator shall have the full police powers of peace officers within boundaries of the City of Vanceburg. They, along with any authorized law enforcement officer, may inspect any premises where alcoholic or malt beverages are manufactured, sold, stored, or otherwise trafficked, without first obtaining a search warrant.

**Sec. 5.02 PENALTIES FOR VIOLATIONS OF CHAPTER 5**

The following penalties shall be in addition to any criminal prosecution instituted in Lewis County courts against an alleged violator and fines hereunder shall be payable to the City ABC Administrator.

The City ABC Administrator may assess a fine of not more than five hundred dollars (\$500.00) per violation. This payment of said fine shall be transmitted to the City Treasurer 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 One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) or imprisoned in the county jail for not more than six (6) months, or both, and for the second and each subsequent violation, he shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$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, joint stock company, or association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

**Chapter 6.00 IMPLEMENTATION OF ORDINANCE PROVISIONS**

From time to time, the Vanceburg City Council may by resolution or order promulgate such rules and regulations and may publish and utilize such forms and other documents as in its discretion may be necessary for the proper implementation of this ordinance

**Sec 6.01 SEVERABILITY**

If any section, sentence, clause, or portion of this Ordinance is for any reason declared illegal, unconstitutional, or otherwise invalid, such declaration shall not affect the remaining portions thereof.

This ordinance shall be effective immediately upon publication. Any ordinances or parts of ordinances in conflict herein are hereby repealed.

  
Chris McGlone, Mayor

Attest:  City Clerk  
Jeana Billman

First Reading: 12.01.14

Second Reading: 12.08.14

Date Published: 12.16.14

## ORDINANCE NO. 410.05A

AN ORDINANCE OF THE CITY OF VANCEBURG amending ORDINANCE NO. 410.05 AN ORDINANCE ESTABLISHING REGULATING THE BUSINESS HOURS OF PLACES OF BUSINESS THAT SELLS ALCOHOLIC BEVERAGES.

WHEREAS, on July 3, 1989, the City Council of the City of Vanceburg, enacted Ordinance No. 410.5 regulating the business hours of places of business that sells alcoholic beverages. in the City of Vanceburg, and

WHEREAS, KRS Chapter 241 grants to the State Alcoholic Beverage Control Board broad power to administer alcoholic beverage laws, and

WHEREAS, KRS 244.480(3) specifies the time when delivery and sale of malt beverages may be prohibited,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY, that Ordinance 410.05 of the City of Vanceburg, enacted on July 2, 1979, is amended to read as follows:

### **Section One:** Definitions

**Alcohol Beverages:** Every liquid or solid containing alcohol in an amount in excess of that permitted in KRS Chapter 242 and capable of being consumed by a human being, and including specifically, but not limited to, beverages commonly known as beer, wine, liquor, and whiskey.

### **Section Two:** License Required

It shall be unlawful for any person, firm or corporation to engage in the business of trafficking in alcoholic beverages within the City limits of Vanceburg, without having obtained the license or licenses as required by the State Alcoholic Beverage Control Board and the City of Vanceburg.

### **Section Three:** Hours for Sale and Consumption

(A) The sale of alcoholic beverages at all places offering the same for sale shall not commence on any day prior to 6:00 a.m. and may not continue after the following hours:

Monday through Thursday: Midnight

Friday and Saturday: 1:00 A.M., the following mornings

(B) Consumption of alcoholic beverages may not continue for more than thirty (30) minutes after the respective hours set forth in paragraph (A) of this Section Three.

(C) Provided, that if any premises, which traffics in alcoholic beverages provides a separate department within the licensed premises capable of being locked and closed off or covered or closed up within which is kept all stocks of alcoholic beverages and said department is kept locked during the times of non-selling hours, it is deemed to be in compliance with this section.

**Section Four:** Police Department to Enforce

It shall be the duty of the Vanceburg Police department to insure that all premises are licensed under this Ordinance and to enforce the restrictions set forth in this Ordinance.

**Section Five:** Alcoholic Beverage Control Administrator

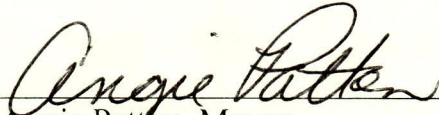
The Mayor, at his or her sole discretion, shall appoint an individual to be the Alcoholic Beverage Control Administrator for the City.

**Section Six:** Penalties

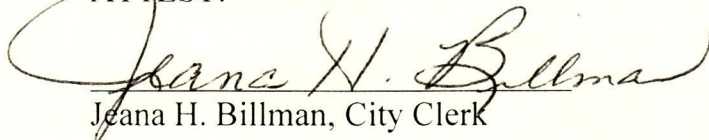
Violation of any provisions of this Ordinance shall be punished as a Violation for the first offense, and each subsequent offense shall be punished as a Class B Misdemeanor.

**Section Seven:** All other ordinances inconsistent herewith are hereby repealed.

This Ordinance shall be in full force and effect after due authorization and publication as prescribed by law.

  
\_\_\_\_\_  
Angie Patton, Mayor

ATTEST:

  
Jeana H. Billman, City Clerk

First Reading: 06/04/07

Second Reading: 06/07/07

AN ORDINANCE AMENDING THE ORDINANCE  
REGULATING THE SALE OF ALCOHOLIC  
BEVERAGES IN THE CITY OF VANCEBURG, KENTUCKY

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY  
OF VANCEBURG, as follows:

SECTION ONE: That all owners and operators of any  
place of business engaged in the sale or trafficking of alcoholic  
beverages of any kind shall cease the sale of said alcoholic beverages,  
food, commodities, or any other goods at ten o'clock (10:00) P.M. each  
evening and shall not resume the sale of said alcoholic beverages, food,  
commodities or any other goods before six o'clock (6:00) A.M.

SECTION TWO: That all owners and operators of any place of  
business which sells or traffics in said alcoholic beverages shall not permit  
the consumption of any such alcoholic beverages, food, commodities, or any  
other goods within the premises after ten-thirty (10:30) P.M. and shall not  
permit the consumption of said alcoholic beverages, food, commodities, or any  
other goods in the premises until six o'clock (6:00) A.M. the next morning  
and further all such places of business shall cause their customers and anyone  
else in the business premises to leave said business premises by ten thirty  
(10:30) P.M.

Provided, that if any premises, which traffics in alcoholic beverages  
provides a separate department within the licensed premises capable of being  
locked and closed off or covered or closed up within which is kept all stocks  
of alcoholic beverages and said department is kept locked during the times  
mentioned above, it is deemed to be in compliance with this section.

SECTION THREE: The penalty for the violation of this ordinance  
shall be a fine of not less than \$25.00 nor more than \$100.00 and/or suspension  
of licenses for a period to be directed by the alcoholic beverage control  
administration.

SECTION FOUR: All other ordinances herewith are repealed.  
This ordinance shall be in full force and effect after due authorization  
and publication as prescribed by law.

*M. J. "Pat" Cooper*  
MAYOR, CITY OF VANCEBURG, KENTUCKY

ATTEST:

*Barbara G. Hensick*  
CITY CLERK

1st Reading - June 5, 1989

2nd Reading - June 3, 1989

VOTE: Yes ( 4 )

No ( 1 )



410.5 SALE of ALCOHOLIC BEVERAGES

SECTION ONE: That all owners and operators of any place of business engaged in the sale or trafficking of alcoholic beverages of any kind shall cease the sale of said alcoholic beverages, food, commodities, or any other goods at ten o'clock (10:00) P. M. each evening and shall not resume the sale of said alcoholic beverages, food, commodities or any other goods before six o'clock (6:00) A. M.

SECTION TWO: That all owners and operators of any place of business which sells or traffics in said alcoholic beverages shall not permit the consumption of any such alcoholic beverages, food, commodities or any other goods within the premises after ten-thirty (10:30) P.M. and shall not permit the consumption of said alcoholic beverages, food, commodities, or any other goods in the premises until six o'clock (6:00) A. M. the next morning and further all such places of business shall cause their customers and anyone else in the business premises to leave said business premises by ten thirty (10:30) P. M.

SECTION THREE: The penalty for the violation of this ordinance shall be a fine of not less than 25.00 nor more than \$100.00 and/or suspension of licenses for a period to directed by the alcoholic beverage control administration.

SECTION FOUR: All other ordinances herewith are repealed. This ordinance shall be in full force and effect after due authorization and publication as prescribed by law.

12-4-78

*Amended  
7.3.89*



ORDINANCE NO. 4-10-6  
AN ORDINANCE REGULATING  
NUMBER OF RETAIL BEER  
LICENSE IN THE CITY OF VANCEBURG

WHEREAS, it has come to the attention of the City of Vanceburg that for the protection of the health, safety and well being of the Vanceburg, that the number of licenses for the retail sale of beer should be restricted to the number that presently lawfully exist in the city limits of Vanceburg, Kentucky.

That the number of retail beer licenses in the City of Vanceburg as of this date is eight (8) licenses.

NOW THEREFORE, the City of Vanceburg, by and through its City Council, does ordain the following:

That henceforth the number of retail beer licenses that shall be issued for the sale of beer in the City limits of the City of Vanceburg is eight (8) licenses.

That at no time may there be more than eight (8) licenses issued for the retail sale of beer in the City of Vanceburg.

This Ordinance shall be in full force and effect after due authorization and publication as prescribed by law.

This Ordinance having been submitted to a vote and enacted this 2nd day of July, 1979.

Howard L. Stetson MAYOR  
CITY OF VANCEBURG

ATTEST:

Russell Deery  
CITY CLERK



## ORDINANCE NO. 410.6A

AN ORDINANCE OF THE CITY OF VANCEBURG RESCINDING AND REPEALING ORDINANCE NO. 410.6 AN ORDINANCE ESTABLISHING A QUOTA FOR RETAIL BEER LICENSES

WHEREAS, .on July 2, 1979, the City Council of the City of Vanceburg, enacted Ordinance No. 410.6 establishing a quota for the number of retail beer licenses that may be issued in the City of Vanceburg, and


WHEREAS, KRS 241.060(2) grants to the State Alcoholic Beverage Control Board the power to limit the number of each kind of alcoholic licenses that may be issued in the State of Kentucky and any political subdivisions, and

WHEREAS, the Supreme Court of Kentucky in the case of Whitehead v Bravard, Ky., 719 S.W.2d 720 (1986), ruled that the State Alcoholic Beverage Control Board has the sole authority to limit the number of retail beer licenses in a municipality, and

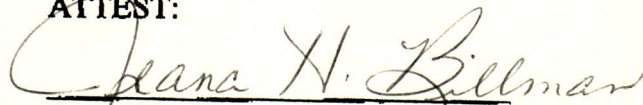
WHEREAS, the State Alcoholic Beverage Control Board, in case No. 05-ABC-135, recently reversed the denial by the Vanceburg Alcoholic Beverage Administrator of an application for retail beer license because the issuance of same would exceed the quota established by Ordinance No. 410.6, and

WHEREAS, the State Alcoholic Beverage Control Board further directed that the license applied for be issued by the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY, that Ordinance 410.06 of the City of Vanceburg, enacted on July 2, 1979, be and the same is hereby rescinded and repealed.

  
\_\_\_\_\_  
William T. Cooper, Mayor

ATTEST:

  
\_\_\_\_\_  
Jeana H. Billman, City Clerk

First Reading: 11-07-05

Second Reading: 12-05-05

430.1 SALE of COAL

SECTION ONE: Any person, partner-ship, form or corporation selling coal in the City of Vnaceburg from any truck, wagon, or other vehicle of any description shall first obtain from said City of Vanceburg, a license. The cost of such license shall be Eight Dollars (\$8.00) for a period of three months, or twenty-five Dollars (\$25.00) foror by the year.

SECTION TWO: Such licenses shall be issued by the City Clerk upon the payment of such cost as set forth in Section one; herein, together with the clerk's fee for issuing same.

SECTION THREE: All moneys collected under this Ordinance shall become a part of the General fund of the City.

SECTION FOUR: Any person partnership, firm or corporation violating any provisions of this ordinance shall be fined not less than Fifteen dollars, nor more than Fifty dollars (\$50.00) and each day that such person, partnership, firm or corporation operates without said license shall be considered a seperate offense.

SECTION FIVE: All ordinances or parts of ordinances conflicting here with are hereby repealed.

Adopted 11-3-47

450.1 GENERAL TELEPHONE CO.

SECTION ONE: The bid of the General Telephone Co. of Kentucky is accepted and the telephone franchise created by the Ordinance of August 4, 1952, is hereby sold to, transferred to, and vested in the General Telephone Company of Kentucky.

SECTION TWO: The City Treasurer is directed to accept the certified check tendered by the General Telephone Company of Kentucky in its bid.

Adopted 9-1-52



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AN ORDINANCE REGULATING THE COMMUNITY CABLE  
TELEVISION SYSTEM FRANCHISE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY

AS FOLLOWS:

SECTION 1. There is hereby created and perpetuated a Community Television System (CATV) Franchise or privilege granting to JAMES R. WITHROW, d/b/a Lewis County Cablevision, whose bid has been accepted and its successors, the right to Erect, Construct, Operate and Maintain a CATV system, consisting of and embracing, poles, boxes, wires, cables, fixtures, electrical appliances, amplifiers, and any and all other apparatus and equipment necessary, essential and useful for the operation and maintenance of a CATV system, together with a non-exclusive right to use the right of way and easements through, upon, along, under, and over the streets, alleys, avenues, public roads, highways, bridges, viaducts, sidewalks and other public places and easements in the City of Vanceburg, Kentucky, as the business of the purchaser hereof, may from time to time require, provided however, that no poles or equipment shall be so situated as to unreasonably interfere with the legitimate ingress and egress to any adjacent private property nor obstruct the free use of said streets, highways, roads, sidewalks, alleys and other public places, for the purpose of public use and travel.

SECTION 2. The Franchise and privilege created and established by this ordinance shall commence September 7, 1985 and continue for a period of fifteen (15) years from and after that date and shall be for the area of the present city limits of the City of Vanceburg or as the city limits expand or contract during the period of this franchise.

Should the City limits expand by annexation into an area already served by a CATV system, purchaser herein shall have the right to serve such area as is provided by Kentucky law.

SECTION 3. The purchaser of this franchise shall comply with all relevant laws and regulations of local, state, and federal agencies and shall continue to operate said franchise in accordance therewith during the terms of this franchise.

SECTION 4. (a) Color TV. The facilities used by the purchaser shall be capable of distributing color TV signals, and when the signals the purchaser distributes are received in color they shall be distributed in color where technically feasible.

(b) Signal Quality Requirements. The purchaser shall:

(1) Produce a picture, whether in black and white or in color, that is undistorted, free from phase images, and accompanied with proper sound on typical standard production TV sets in good repair, and as good as the state of the art allows; or level of "Zero" DB;



(2) Transmit signals of adequate strength to produce good pictures with good sound at all outlets without causing cross-modulation in the cables or interfering with other electrical or electronic systems;

(3) Limit failures to a minimum by locating and correcting malfunctions promptly, but in no event longer than 12 hours after notice; barring emergency;

(4) Demonstrate by instruments and otherwise to subscribers that a signal of adequate strength and quality is being delivered.

(c) Operation and Maintenance of System.

(1) The purchaser shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible such interruptions insofar as possible shall be preceded by notice and shall occur during periods of minimum use of the system.

(2) The purchaser shall maintain an office in the City, which shall be open during all usual business hours, have a listed telephone, and be so operated that complaints and requests for repairs or adjustments may be received at any time.

SECTION 5. The purchaser shall receive and distribute television and radio signals which are disseminated to the general public without charge by broadcasting stations licensed by the Federal Communications Commission, and shall distribute no other signals, except that the purchaser may distribute to its customers a pay TV signal(s) or channels(s) such as Home Box Office, Movie Channel, etc.

SECTION 6. Service to Schools and Libraries.

(a) The purchaser shall provide service to public school locations and teaching stations and libraries within the City for educational purposes upon request by the City and at no cost to it or to the public school system. The purchaser may at its election provide similar services without cost to private school, including parochial or other religious schools.

(b) Emergency Use of Facilities. In the case of any emergency or disaster, the purchaser shall, upon request of the Mayor, make available its facilities to the City for emergency use during the emergency or disaster period.

SECTION 7. City Rights in Franchise.

(a) The right is hereby reserved to the City or the City Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

(b) The City shall have the right to inspect the books, records, maps, plans, income tax returns, and other like materials of the purchaser at any time during normal business hours, limited to Schedule C of Federal Income Tax.



(c) The City shall have the right, during the life of this franchise, to install and maintain free of charge upon the poles of the purchaser any wire and pole fixtures necessary for a police alarm system, on the condition that such wire and pole fixtures do not interfere with the CATV operations of the purchaser.

(d) The City shall have the right to supervise all construction or installation work performed subject to the provisions of this Franchise and make such inspections as it shall find necessary to insure compliance with the terms of this Franchise and other pertinent provisions of law.

(e) At the expiration of the term for which this Franchise is granted, or upon its termination and cancellation, as provided for herein, the City shall have the right to require the purchaser to remove at its own expense, all portions of the CATV system from all public ways within the City.

SECTION 8. Payment to the City. The purchaser shall pay to the City annually an amount equal to Three (3) Percent of the annual gross operating revenues taken in and received by it on all retail sales of television signals within the City during the year, for the use of the streets and other facilities of the City in the operation of the CATV system and for the municipal supervision thereof. This payment shall be in addition to any other tax or payment owed to the City by the purchaser. Said fee shall be collected on the gross receipts of the basic subscription rate only.

SECTION 9. Forfeiture of Franchise.

(a) In addition to all other rights and powers pertaining to the City by virtue of this Franchise or otherwise, the City reserves the right to terminate and cancel this Franchise and all rights and privileges of the purchaser hereunder in the event that the purchaser:

- (1) Violates any provision of this Franchise or any rule, order, or determination of the City or City Council made pursuant to this Franchise, except where such violation, is without fault or through excusable neglect;
- (2) Becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt;
- (3) Attempts to evade any of the provisions of this Franchise or practices any fraud or deceit upon the City; or
- (4) Fails to begin complete construction under this Franchise before September 7, 1985.

(b) Such termination and cancellation shall be by ordinance duly adopted after 30 days notice to the purchaser and shall in no way affect any of the City's rights under this Franchise or any provision of law. Provided, however, that before this Franchise may be terminated and cancelled under this Section, the purchaser must be provided with an opportunity to be heard before the City Council.



SECTION 10. City's Right of Intervention. The purchaser agrees not to oppose intervention by the City in any suit or proceeding to which the purchaser is a party.

SECTION 11. Number of Channels. The purchaser's cable distribution system shall be capable of carrying at least 11 television channels. Further, the purchaser shall make available upon the request of the City Council one channel for educational TV.

SECTION 12. Rates.

(a) The rates and charges for television and radio signals distributed hereunder shall be fair and reasonable and no higher than necessary to meet all costs of service (assuming efficient and economical management), including a fair return on the original cost, less depreciation, of the properties devoted to such service (without regard to any subsequent sale or transfer price or cost of such properties).

(b) The City Council shall have the power, authority, and right to cause the purchaser's rates and charges to conform to the provisions of subsection (a) hereof, and for this purpose, it may deny increases or other reduction in such rates and charges when it determines that in the absence of such action on its part, the purchaser's rates and charges or proposed increased rates and charges will not conform to the said subsection (a).

(c) By its acceptance of this Franchise the purchaser specifically grants and agrees that its rates and charges to its subscribers for television signals shall be fair and reasonable and no higher than necessary to meet all its necessary costs of service (assuming efficient and economical management), including a fair return on the original cost, less depreciation, or its properties devoted to such service (without regard to any subsequent sale or transfer price or cost of such properties).

(d) By its acceptance of this Franchise the purchaser further specifically grants and agrees that the City Council shall have the power, authority, and right to cause the purchaser's rates and charges to conform to the provisions of subsection (c) hereof and for this purpose the Council may deny increases or order reductions in such rates and charges when it determines that in the absence of such action on its part, the purchaser's rates and charges or proposed increased rates and charges will not conform to the said subsection (c).

(e) However, no action shall be taken by the City Council with respect to the purchaser's rates under this Section until the purchaser has been given reasonable notice thereof and an opportunity to be heard by the Council with regard thereto.



(f) The following rates and charges are hereby authorized for service under this Franchise and shall not be changed by the purchaser without prior approval by the City Council:

The fees and rates for services rendered by purchaser shall be as follows, viz:

A. Installation Fees:

- (1) ~~\$35.00~~ \$17.50 for initial installation of one hook-up;
- (2) ~~\$15.00~~ \$ 7.50 for initial installation of each additional hook-up in a single dwelling;
- (3) ~~\$15.00~~ \$ 7.50 when moving from one location to another;
- (4) ~~\$15.00~~ \$ 7.50 for reconnecting a hook-up which has been discontinued for non-payment of monthly subscriber service charge or for other reasons.

B. Monthly Charges for Regular Subscriber Service:

- (1) ~~\$-8.50~~ \$ 9.95 plus applicable sales tax for one hook-up;
- (2) \$ 1.00 plus applicable sales tax for each additional hook-up in a single dwelling

C. A Minimum of ~~Eleven-(11)~~ Sixteen (16) Channels, viz:

- (1) Two channels to be ABC affiliates;
- (2) Two channels to be NBC affiliates;
- (3) Two channels to be CBS affiliates;
- (4) Two channels to be independent stations;
- (5) ~~Two Seven~~ channels via satellite, viz: ESPN, WTBS Atlanta, Cable News Network, Nashville Network, WGN Chicago, USA Network, and Christian Broadcasting System;
- (6) One channel to be KET station;

(g) An optional "Pay TV" satellite channel such as HBO, Movie Channel, etc. may be available to subscribers desiring the service and an additional monthly fee shall be charged therefore. Said fee for additional service shall not be subject to the 3% franchise fee nor shall the rates charged therefore be regulated by the City Council.

(h) Further, purchaser reserves the right to pass on any increases in rate for the satellite service station such as WTBS and ESPN or other satellite stations furnished in the basic service, provided purchaser shall report the rate change to the City Council by the next regular meeting thereof showing the justification therefore and the City Council shall reserve the right to veto any rate change so passed on if found to be unreasonable or arbitrary or unjustified. Said determination shall be made only upon a hearing held for that purpose duly noticed to the public for an opportunity for purchaser and the public to attend.

(i) If in the future, the State of Kentucky regulates the rates of the grantee for the service provided for in this Franchise, this Section shall be of no effect during such state regulation to the extent of any conflict therewith.

(j) Application for rates for installing additional sets, service and monthly charges, therefore, shall be submitted to the City Council of the City of Vanceburg, Kentucky, and approved by the said Council, prior to charging for same. The purchaser or holder of this Franchise may file an Application for a change of rates, whenever the necessity for same may arise.

Such application shall be heard by the City Council, after notice has been published by the purchaser, or holder of said Franchise, in the Lewis County Herald, a local newspaper, for not less than two consecutive weeks, before the date of said hearing. When upon a satisfactory showing at a public hearing, of change in conditions, whether or not any protest is filed, the City Council shall act upon the application. It may in its discretion, approve, modify or reject the same.

When any protest, or complaint is filed with the City Council about the service, or the "quality" of the service, the purchaser shall be notified to appear and show cause, if any, why such service should not be improved. If the City Council determines that such service can reasonably be improved, it shall order the Purchaser, or holder, of said Franchise, to comply within a reasonable time to be set by the City Council.

The failure of the purchaser to comply with any order of City Council, or violation of any of the requirements set out in any section, of this Franchise, shall in the discretion of the City Council, render the Franchise null and void.

SECTION 13. Separability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 14. Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 15. Expiration, Cancellation and Transfer of Franchise.

(a) Not later than 18 months prior to expiration date of this franchise, the City shall, pursuant to the laws of Kentucky and the regulations of the F. C. C. then in effect, advertise for bids for providing CATV services in the area. In the event that a franchise is then awarded to someone other than purchaser the new franchisee shall be required to pay unto the purchaser the fair market value of the system as a going concern. In the event that purchaser and the new franchisee cannot agree upon the fair market value of the system as a going concern, then same shall be determined by arbitration as hereinafter provided.

(b) In the event that this franchise is cancelled by the City for material breach of the terms of this said franchise, then the purchaser shall, pursuant to the laws of Kentucky and the regulations of the F. C. C. then in effect, advertise for bids for providing CATV service in the area. In such

event the new franchisee shall be required to pay unto purchaser the depreciated original cost of the system with no value assigned to the franchisee. In the event that the purchaser and the new franchisee cannot agree upon the depreciated original cost of the system, then same shall be determined by arbitration as hereinafter provided.

(c) In the event of a transfer of the system under paragraph (a) of this Section, purchaser shall be required to continue service to the public as a trustee for the new franchisee during the reasonable interim period while transfer of the system is arranged. In such event, purchaser, acting as trustee for the new franchisee, shall make an accounting for the net earnings or losses during the interim period. During said interim period the new franchisee shall pay purchaser a reasonable amount for purchaser's services. Any profit made by the system during said interim period shall be remitted by purchaser to the new franchisee. Any loss incurred by the system during said interim period shall be borne by the new franchisee. In the event a dispute arises between purchaser and the new franchisee as to the amount purchaser should be paid for operating the system during said interim period or the accounting purchaser makes to the new franchisee for said interim period shall be resolved by arbitration as hereinafter provided.

(d) This franchise shall not be assigned or transferred by purchaser without the express written consent of the City and then only after a public hearing has been held in connection with said assignment or transfer.

(e) The following shall be the formula for arbitration under this section, viz:

(2) The Purchaser and the new franchisee shall each choose one arbitrator and said two arbitrators shall choose a third.

(2) Each arbitrator selected shall be a reputable person, familiar with CATV systems, and shall be competent, impartial and of good business reputation.

(3) The arbitrators shall view the CATV system and comparable CATV systems and shall confer concerning the value of the CATV system and a fair consideration for same. They shall attempt to agree in writing upon the fair market value of the systems as a going concern or the depreciated original cost of the system with no value assigned to the franchise, whichever the case may be, within ten (10) days.

(4) The arbitrators shall reduce their respective reports to writing within said ten day period. If one of the two arbitrators originally chosen refused to complete or cannot complete his duties as arbitrator, the same party who chose him shall choose a successor. If the third arbitrator refuses to complete or cannot complete his duties as arbitrator, his successor shall be chosen by the two arbitrators first chosen. If the three arbitrators agree upon the value requested of them, their report shall be in writing and signed by all of them. If they cannot agree, each of them shall sign a separate report setting forth his conclusion, and the value requested of them shall be one-third of the total of the three amounts set forth.



(5) The expense of arbitration shall be borne equally by purchaser and the new franchisee.

(6) The value arrived at as determined shall be binding upon both the purchaser and the new franchisee.

SECTION 16. INDEMNIFICATION

Purchaser shall indemnify and save harmless the City from any and all damages, judgments, decrees, costs, and expenses which the City may legally suffer or incur or which may be legally obtained against the City for or by reason of the use and occupation of any road, street, avenue, alley or other public place in the area by the purchaser, pursuant to the terms of this franchise, or legally resulting from the exercise by purchaser of any of the privileges herein granted; and, if any claim shall be made or suit brought against the City for damages alleged to have been sustained by reason of the occupation of any road, street, avenue, alley or public place or the exercise of any privileges herein granted, by purchaser the City shall immediately notify the purchaser in writing thereof and the purchaser is hereby given the right and privilege to defend or assist in defending such suit in the City's name.

SECTION 17. GENERAL FUND

The franchise fee charged hereunder and payable by the purchaser shall be paid quarterly and deposited to the General Fund of the City of Vanceburg and shall be used to defray the general obligations of the City.

M. J. "Pat" Cooper  
CITY OF VANCEBURG, MAYOR

ATTEST:

Brenda Worthington  
BRENDA WORTHINGTON, City Clerk

1st Reading 10/10/84

2nd Reading 10/15/84



AN ORDINANCE APPROVING ASSIGNMENTS OF COMMUNITY CABLE TELEVISION SYSTEM  
FRANCHISES HERETOFORE GRANTED BY THE CITY COUNCIL OF VANCEBURG  
TO JAMES R. WITHROW

450.3

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY:

That James R. Withrow, d/b/a Lewis County Cable Vision, is hereby authorized to assign unto L. C. Cablevision Partners, a Florida partnership, the following Franchises For Operating Community Cable Television Systems heretofore granted to the said James R. Withrow by the Council of the City of Vanceburg, Kentucky, viz:

1. A franchise granted on November 2, 1965, and assigned by William T. Love with approval of the Council, on June 6, 1977, and
2. A franchise granted on September 17, 1983, by Ordinance No. 450 2.

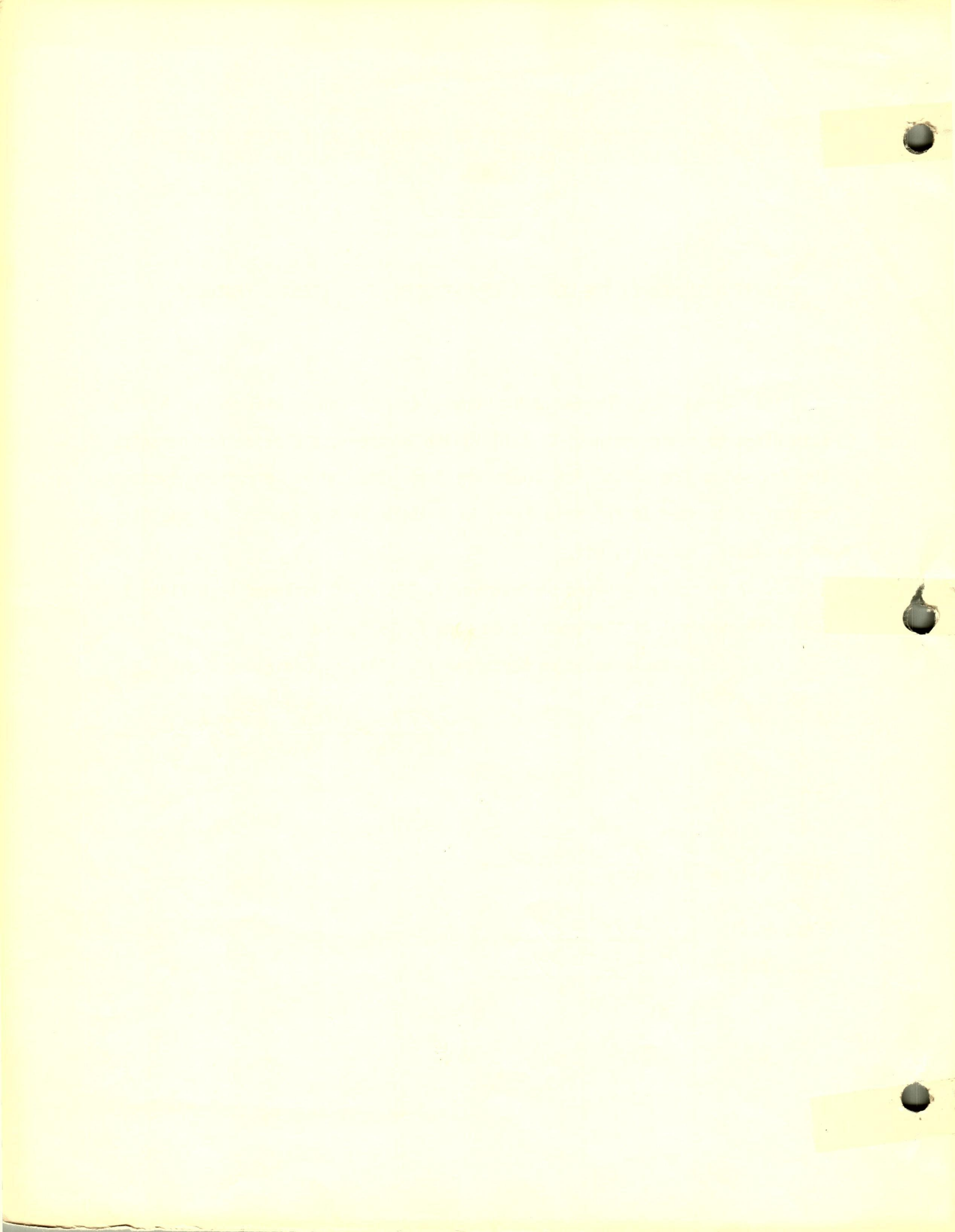
M. J. Pat Cooper  
Mayor, City of Vanceburg

ATTEST:

Brenda Northington  
Clerk, City of Vanceburg

First Reading 10-10-84

Second Reading 10-15-84



AN ORDINANCE AMENDING THE  
RESOLUTION REGULATING THE OPERATION,  
MAINTENANCE AND REPAIR OF COMMUNITY  
ANTENNA SYSTEM.

450.4

WHEREAS, The Board of City Council of the City of Vanceburg, Kentucky, has heretofore adopted and passed Ordinance creating a Community Television Antenna System, and Whereas,

The Love Hardware Company, a Corporation of Vanceburg, Ky., was declared the Highest and Best Bidder, on their Bid, as follows:

The sum of One Hundred Fifty (\$150.00) Cash Dollars, and the further sum of Three and One-Half (3 1/2) Percent of the Gross annual Income, Received by the Corporation from the operation of said Television Antenna Aerial System in the City of Vanceburg, Ky., payable in Quarterly Installments, on or before the 10th day of April - July, October and January of each year.

The City of Vanceburg, by such Ordinance Retained unto the legislative body, The right to regulate the operation, maintenance and repair of said system.

1. ~~The said, The Love Hardware Co., a Corporation, is granted the right of making the following Rates or Charges for services:~~

	\$4.40
TELEVISION-ANTENNA-AND-AERIAL-SERVICE	\$3.00-(Three)-per-month

Paragraph 1 of said Resolution is changed to read as follows:

"The franchise holder is granted the right of making a Monthly Cable Rental of \$9.95 for regular subscriber service."



2. The Franchise holder, hereing referred to, as the Company, will provide the best Signal available at all times, but shall not be responsible for Interruption of Service, by reason of Fire, Floor, Windstorm, Hail, Accident, Act of God, Order of any Court of Law of any Municipality, and State, and Company shall not be responsible, or liable for any damages resulting from Interruption of Services by reason thereof, The Company will at all times provide such service, as will conform to all Federal Communications, Board of Commissions in effect. In the Event of Interruption as aforesaid, the Company will proceed immediately to restore service as soon as possible.

3. The Company shall not assume any responsibility for the operation, maintenance, service or repairs of the consumers television set.

4. The Company shall assume sole Responsibility for the maintenance, service and repairs to its Power, Cables, Wires, Antennas, Amplifiers and all other Equipment, necessary for the relaying of the television service.

5. ~~The Customer shall receive for such Monthly Cable Rental Payment, -at-least-three-(3)-SEPERATE-AND-DISTINCT-COMMERCIAL CHANNELS-OR-STATIONS.~~

Paragraph 5 of said Resolution is changed to read as follows:

"The Customer shall receive for such Monthly Cable Rental a minimum of sixteen (16) Channels, viz:

Two channels to be ABC affiliates;  
Two channels to be NBC affiliates;  
Two channels to be CBS affiliates;  
Two channels to be independent stations;

One channel to be KET station;

Seven channels via satellite, viz:

ESPN, WTBS Atlanta, Cable News Network, Nashville Network, WGN Chicago USA Network, and Christian Broadcasting System;

6. The Company is authorized to demand and receive payment of Monthly Rental or Service Fee in advance, and in the event, that the Consumer, fails to remit or pay said Fee or Charge by the 10th of each month, in which Rental is due, the Company is authorized to Disconnect the Service and Installation.

7. The Consumer, or Customer, shall not in any way disturb, alter or move the Signal Wire of the Company and will not attach additional television sets to said wire of the Company without the express written permission and consent of said Company. The Company shall, however, on application, install additional antenna outlet or outlets on premises of Consumer upon payment by the Consumer, of additional rental or service charge therefor, not to exceed the sum of \$3.00 per month additional. In event of Breach of this Clause, the Company is authorized to remove its equipment from the premises and Consumer shall forfeit all fees and charges paid by him to date of removal.

8. In the event Consumer desires to relocate his, her or their television set on the same premises after the original Installation, then the Company is authorized to charge for said relocation on the basis of time plus materials but said charge shall not exceed the actual cost thereof of said time plus materials.

9. In the event Consumer desires to relocate the service wire on premises, other than that of the original installation, the Company shall relocate same on the new premises and is authorized to charge not to exceed the sum of

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\$7.50 for such relocation provided, however, that the new location is within the area then being served by the Company. In the event no service is being rendered in the desired relocated area, the Company shall not be required to so relocate the Consumes antenna service wire.

Be it further resolved that the regulation, rules, charges and requirements herein promulgated may be, from time to time, amended, modified, revealed, cancelled or altered, upon proper notice of at least 15 days and by advertisement, for at least 10 days before date and time of hearing.

This Resolution, passed and adopted on October 15, 1984.

M. J. "Pat" Cooper  
MAYOR, CITY OF VANCEBURG, KENTUCKY

Attest:

Brenda Northington  
CITY CLERK

first reading 10/10/84  
second reading 10/15/84



ORDINANCE NO. 450.05A

An Ordinance Granting a Nonexclusive  
Cable Television Franchise

The City Council of the City of Vanceburg, Kentucky, having determined that the financial, legal, and technical ability of FrontierVision Operating Partners, L.P., d/b/a Adelphia Cable Communications, is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the City of Vanceburg,

NOW, THEREFORE BE IT ORDAINED BY THE CITY OF VANCEBURG, KENTUCKY, AS FOLLOWS:

SECTION 1  
Definitions

- 1.1 Terms. For the purpose of this Ordinance, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below.
- a. "Affiliate" means an entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee.
  - b. "Basic Cable" is the tier of service regularly provided to all Subscribers that includes the retransmission of local broadcast television signals, which is currently referred to as "Antenna Service".
  - c. "Cable Act" means the cable Communications Policy Act of 1984, as amended.
  - d. "Cable Service" means (i) the transmission to Subscribers of video programming or other programming service, and (ii) Subscriber interaction, if any, which is required for the selection of such Video Programming.
  - e. "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Cable Service and other services to Subscribers.
  - f. "FCC" means Federal Communications Commission, or successor governmental entity thereto.
  - g. "Franchise" shall mean the initial authorization or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, ordinance, resolution, contract, certificate, or otherwise, which

authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other service to Subscribers.

- h. "Franchising Authority" means the City of Vanceburg, Kentucky, or the lawful successor, transferee, or assignee thereof.
- i. "Grantee" means FrontierVision Operating Partners, L.P., d/b/a Adelphia Cable Communications, or the lawful successor, transferee, or assignee thereof.
- j. "Gross Revenues" means revenue from the operation of the cable system within the franchise area, received by Adelphia from subscribers for the basic service tier of programming and for any optional tier of programming service, customer equipment and installation charges, disconnection and reconnection charges. Gross revenues shall not include that share of fees remitted to suppliers for programming services or revenues for programming services offered on pay-per-view channel or pay-per-program basis, deposits, refunds and credits made to subscribers, bad debt, revenue from subscribers designated by Adelphia as payment of its franchise fee obligation, or any taxes imposed on the services furnished by Adelphia herein which are imposed directly on the subscriber or user by the local or any governmental unit and collected by Adelphia on behalf of that government unit.
- k. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- l. "Premium Service" means an optional per channel program services, provided to subscribers at a charge in addition to Basic Cable.
- m. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing or transmitting Grantee's Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

- n. "Service Area" means the present City boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.
- o. "Service Tier" means a category of Cable Service or other services provided by Grantee and for which a separate charge is made by Grantee.
- p. "Subscriber" means a person or user of the Cable System who lawfully receives Cable Services or other service therefrom with Grantee's express permission.
- q. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 2  
Grant of Franchise

- 2.1 Grant. The City Council of Vanceburg, Kentucky, hereby grants to Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System and offer Cable Service and other data and communication services in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area under the control of the Franchising Authority and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, under the control of the Franchising Authority, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System. With respect to the use of rights-of-way not within the Franchise Authority's jurisdiction, Grantee shall undertake to obtain authority for the use of such rights-of-way from each respective, controlling governmental authority.
- 2.2 Term. The Franchise granted pursuant to this Ordinance shall be for a term of fifteen (15) years, commencing on September 7, 2000.
- 2.3 Other Cable Franchises. In the event the Franchising Authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than Grantee to enter into the Franchising Authority's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

SECTION 3  
Standards of Service

- 3.1 Conditions of Street Occupancy. All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said Public Ways.
- 3.2 Restoration of Public Ways. If during the course of Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.
- 3.3 Relocation at Request of Franchising Authority. Upon its receipt of reasonable advance notice, not to be less than ten (10) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of the Grantee when lawfully required by Franchising Authority or other governmental authority including the City of Vanceburg, Kentucky, the County of Lewis, the Commonwealth of Kentucky, or agency of the federal government, by reason of traffic conditions, public safety, street abandonment, freeway or street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the Franchising Authority, or other governmental authority including the City of Vanceburg, Kentucky, the County of Lewis, the Commonwealth of Kentucky, or agency of the federal government, but the Grantee shall in all cases have the right of abandonment of its property, provided that all current Subscribers to the system are retained. If public funds are available to any company using such street, easement, or right-of-way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the Grantee in accordance with the applicable law.
- 3.4 Relocation at Request of Third Party. The Grantee shall, on the request of any person holding a building moving permit issued by the Franchising Authority or other governmental authority including the City of Vanceburg, Kentucky, the County of Lewis, the Commonwealth of Kentucky, or agency of the federal government, temporarily raise or lower its wires to permit the moving of such building, provided: (a) the expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance; and (b) the Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary wire changes.

- 3.5 Trimming of Trees and Shrubbery. The Grantee shall have authority to trim trees or other natural growth overhanging or otherwise interfering with any of its Cable System in the Service Area under the control of the Franchising Authority so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment. Grantee shall be permitted to charge persons who own, or are responsible for, such trees or natural growth for the cost of such trimming, provided that similar charges are assessed by and paid to the utilities or the Franchising Authority for tree trimming.
- 3.6 Safety Requirements. Construction, installation, and maintenance of the Cable System shall be performed in an orderly and workman-like manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations.
- 3.7 Aerial and Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground, provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this Section 3.8 shall require Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this Section 3.7, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this Ordinance, Grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.
- 3.8 Required Extensions of Service. Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from at least fifteen (15) households, which have agreed to pay for service for one year, within 2,640 cable-bearing strand feet (one-half mile) of its distribution cable, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for system extension, other than the usual connection fees for all Subscribers, provided that such extension is technically feasible and will not adversely affect the operation, financial condition, or market development of the Cable System, or as provided for under Section 3.10 of this Ordinance. When counting the number of potential subscriber households requesting service under this

provision, households then subscribing to a satellite direct-to-home service shall be counted as  $\frac{1}{4}$  household.

3.9 Subscriber Charges for Extensions of Service. No Subscriber shall be refused service arbitrarily. However, for special circumstances (such as a Subscriber's request to locate the cable drop underground, or the need for under-highway crossings, or the existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service to Subscribers, or a density of less than fifteen (15) households per 2,640 cable-bearing stand feet of distribution cable) Cable Service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by Grantee and Subscribers in the area in which Cable Service may be extended, Grantee will contribute an amount equal to the construction and other costs per half mile, multiplied by a fraction whose numerator equals the actual number of potential subscribers desiring service per 2,640 cable-bearing strand feet of its trunk or distribution cable, and whose denominator equals fifteen (15) Subscribers. Potential subscribers will bear the remainder of the construction and other costs on a pro rata basis. Grantee may require that the payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance. When counting the number of potential subscriber households requesting service under this provision, households then subscribing to a satellite direct-to-home service shall be counted as  $\frac{1}{4}$  household.

3.10 Service to Public Buildings.

A. Cable Services. The Grantee shall provide without charge one (1) outlet of Cable Service to the locations enumerated on Exhibit A. The outlets of Cable Service shall not be used to distribute or sell Cable Services in or throughout such buildings, nor shall such outlets be located in common or public areas open to the public. Users of such outlets and facilities shall hold Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability or those relating to technical malfunctions. Notwithstanding anything to the contrary set forth in this Section 3.10, the Grantee shall not be required to provide an outlet to such building where the drop line from the distribution cable to said buildings or premises exceeds one hundred fifty (150) cable feet, unless it is technically feasible and so long as it will not adversely affect the operation, financial condition, or market development of the Cable System to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 150 cable feet. In the event that additional outlets of Cable Service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials.

B. Internet Services. The grantee agrees that it shall, as soon as reasonably possible and subject to request and availability therefore, provide one free bi-directional high-speed internet installation (Adelphia's Power Link Service), and one broadband cable modem to each public and state accredited private elementary and secondary school and to each public library, as well as one installation and cable modem to the City Hall/Police Station, Building. Grantee shall waive all standard installation and continuing access fees for the provision of said Internet service, but shall not be responsible for any expense in excess of the standard 150 foot service drop, which shall be borne by the requesting school or library on a time and materials basis. The Grantor agrees that it will not internally connect or network such internet connections to other computer terminals but in the event that the Grantor wishes to create an internal network, it will contact Adelphia to provide such networking.

- 3.11 Subscriber Complaint Resolution. Grantee agrees to respond to all Subscriber complaints within ten (10) business days of receipt. Any resolution that does not satisfy the Subscriber will be forwarded to the next level of management until it reaches the General Manager. If the complaint is still unresolved, the General Manager will contact the Grantee's Regional Manager to reach an amicable resolution. If a satisfactory resolution still cannot be reached, FrontierVision will confer in writing with the Mayor of the City of Vanceburg within ten (10) business days of the receipt of complaint in an effort to resolve the dispute.
- 3.12 Parental Control Devices. Grantee shall provide to Subscribers, upon request, parental control devices that allow any channel or channels to be locked out. Grantee shall be entitled to charge a reasonable fee for these devices and the installation charge.
- 3.13 Local Office. Grantee shall maintain an office within the Service Area which shall be open during normal business hours and shall maintain a publicly listed toll-free telephone number. Grantee shall maintain adequate telephone lines and personnel to respond in a timely manner to scheduled service calls and answer subscriber complaints or inquiries.

#### SECTION 4

##### Regulation by Franchising Authority

- 4.1 Rates and Charges. The Franchising Authority may regulate rate increases for the provision of Cable Service to the extent allowed by law.
- 4.2 Renewal of Franchise. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, 47 U.S.C. 546, as this provision existed on the effective date of this Franchise, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

In addition to the procedures set forth in said Section 626(a), the Franchise Authority agrees to notify Grantee of its preliminary assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. The Franchising Authority further agrees that such a preliminary assessment shall be provided to the Grantee prior to the time that the four (4) month period referred to in Subsection (c) of Section 626 is considered to begin. Notwithstanding anything to the contrary set forth in this Section 4.2, the Grantee and Franchising Authority agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof. The Grantee and the Franchising Authority consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act.

- 4.3 Conditions of Sale. Except to the extent expressly required by federal or state law, if a renewal or extension of Grantee's Franchise is denied or the Franchise is lawfully terminated and the Franchising Authority effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the Cable System valued as a going concern.

Grantee and Franchising Authority agree that in the case of a lawful revocation of the Franchise, Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. The Franchising Authority further agrees that during such a period of time, it shall authorize the Grantee to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than one (1) year from the effective date of such revocation. If, at the end of that time, Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising Authority, Grantee and Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that Grantee's continued operation of its Cable System during the one (1) year period shall not be deemed a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee. Notwithstanding anything to the contrary set forth in Section 4.3, neither Franchising Authority nor Grantee shall be required to take any action inconsistent with federal or state law.

- 4.4 Transfer of Franchise. Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an Affiliate, without the prior consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed more than sixty (60) days from date of notification to the Franchising Authority. Grantee shall use its best efforts to assist in the provision of relevant financial and technical information to the Franchising Authority with respect to the proposed transferee. No such consent shall be required, however, for a transfer in trust, by

mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Grantee in the Franchise or Cable System in order to secure indebtedness. Corporate reorganizations which do not change the ultimate controlling entity and intrafamilial transactions are not considered transfers of control for purposes of this provision.

- 4.5 Franchise Fee. Grantee shall pay to the Franchising Authority a franchise fee equal to three percent (3%) of the Gross Revenues (as defined in Section 1.1 of this Ordinance) received by Grantee on an annual basis. The Franchise Fee payment shall be due and payable ninety (90) days after the close of the annual period for each calendar year, but the first accounting period shall commence with the first month immediately following that month in which this Ordinance is adopted. Each payment shall be accompanied by a statement from a representative of Grantee showing the basis for the computation.

Notwithstanding the preceding paragraph, in the event of any amendment or change in the current Federal Law which provides for limitations on the maximum franchise fee that franchising authorities may impose, the parties hereto agree that either the Franchise Authority or the cable company may request renegotiation of the franchise fee specified herein, and both parties agree to negotiate in good faith to establish a reasonable franchise fee, taking into consideration the then current circumstances, prevailing economic circumstances, other factors, and prevailing fees within the cable television industry.

## SECTION 5

### Insurance and Indemnification

- 5.1 Insurance Requirements. Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Comprehensive General Liability Insurance in the amount of \$3,000,000 combined single limit for bodily injury, and property damage. Said insurance shall designate the Franchising Authority as an additional named insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority. Grantee shall additionally maintain Automotive Liability Insurance in the amount of \$1,000,000. Grantee shall provide a current Certificate of Insurance to the Franchising Authority verifying coverage, providing the Franchising Authority as an additional insured and requiring thirty (30) days notice to the Franchising Authority of cancellation.
- 5.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its elected officials, officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs. Grantee will not be liable where the Franchising Authority, its elected officials, officers, employees or assigns are negligent.

SECTION 6  
Compliance and Monitoring

- 6.1 Testing for Compliance. Grantee shall comply with testing that may be required under FCC regulations. In addition, the Franchising Authority at its own expense may perform similar technical tests of the Cable System during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the Cable System in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable state or federal laws. Except in emergency circumstances, such tests may be undertaken only after giving Grantee reasonable notice thereof, not to be less than five (5) business days, and providing a representative of Grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the cost of such testing shall be borne by the Grantee. Except in emergency, the Franchising Authority agrees that such testing shall be undertaken no more than two (2) times a year in the aggregate, and that the results thereof shall be made available to the Grantee upon Grantee's request.
- 6.2 Books and Records. The Grantee agrees that the Franchising Authority may review such of its books and records, during normal business hours, as is reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, to the extent provided by law.

SECTION 7  
Enforcement and Termination of Franchise

- 7.1 Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, it shall notify Grantee in writing of the exact nature of the alleged noncompliance.
- 7.2 Grantee's Right to Cure or Respond. Grantee shall have thirty (30) days from receipt of the notice described in Section 7.1: (a) to respond to the Franchising Authority contesting the assertion of noncompliance, or (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot be cured with the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.
- 7.3 Public Hearing. In the event that Grantee fails to respond to the notice described in Section 7.1 pursuant to the procedures set forth in Section 7.2, or in the event that the alleged default is not remedied within sixty (60) days after the Grantee is notified of the alleged default pursuant to Section 7.1, the Franchising Authority shall schedule a private meeting with the Mayor of the City of Vanceburg and the Grantee to investigate the

default. A subsequent public meeting may be held if the alleged default is not remedied within sixty (60) days after the private meeting is held with Grantee. Such public meeting shall be held at the next regularly scheduled meeting of the Franchising Authority which is scheduled at a time which is no less than five (5) business days therefrom. The Franchising Authority shall notify the Grantee of the time and place of such meeting and provide the Grantee with an opportunity to be heard.

- 7.4 Enforcement. Notwithstanding this section, Grantee does not waive any of its rights under the Cable Act regarding revocation. Subject to applicable federal and state law, in the event the Franchising Authority, after such meeting, determines that Grantee is in default of any provision of the Franchise, the Franchising Authority may:
- a. Commence an action at law for monetary damages or seek other equitable relief;
  - b. In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or
  - c. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

The Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the Franchising Authority to enforce prompt compliance.

- 7.5 Acts of God. The Grantee shall not be held in default or noncompliance with the provisions of the Franchise nor suffer any enforcement or penalty relating thereto, when such noncompliance or alleged defaults are caused by strikes, acts of God, power outages or other events reasonably beyond its ability to control.

## SECTION 8 Miscellaneous Provisions

- 8.1 Preemption. If the FCC or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the Franchise, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by the Franchising Authority, the jurisdiction of the Franchising Authority shall cease and no longer exist.
- 8.2 Actions of Franchising Authority. If any action by the Franchising Authority or representative thereof is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in the instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.3 Notice. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service or by an overnight delivery service.

The notices or responses to the Franchising Authority shall be addressed as follows:

E. V. Holder, Jr., Esq.  
City Attorney  
407-409 Second Street  
Vanceburg, KY 41179

With copy to:  
Mayor William T. Cooper  
615 Second Street  
Vanceburg, KY 41179

The notices or responses to the Grantee shall be addressed as follows:

Adelphia  
ATTN: Legal Department  
1 North Main Street  
Coudersport, PA 16915

With copy to:  
Adelphia  
ATTN: Area Manager  
32 Enterprise Drive, P.O. Box 627  
Chillicothe, OH 45601

Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other.

8.4 Descriptive Headings. The captions to Sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.5 Severability. If any Section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term, or provision hereof, all of which will remain in full force and effect for the term of the Franchise, or any renewal or renewals thereof.

Introduced and given first reading on the 8<sup>th</sup> January, 2001.

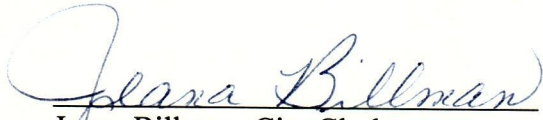
Given second reading and enacted on the 5<sup>th</sup> day of February, 2001.

City of Vanceburg, Kentucky

By: 

William T. Cooper, Mayor

Attest:

  
Jeana Billman, City Clerk

**NOTICE OF ENACTMENT AND SUMMARY  
OF ORDINANCE NO. 450.05A**

**AN ORDINANCE GRANTING A NONEXCLUSIVE  
CABLE TELEVISION FRANCHISE**

As required by KRS 83A.060(9), I hereby certify that an Ordinance bearing the above title was given first reading by the City Council of the City of Vanceburg, Kentucky, at a duly convened meeting held on January 8, 2001, and was given second reading on February 5, 2001, and that the following is a Summary of such Ordinance prepared by E. V. Holder, Jr., Attorney for the City of Vanceburg, Kentucky.


**SUMMARY OF ORDINANCE**

This Ordinance grants a nonexclusive franchise which authorizes Frontier Vision Operating Partners, L.P., d/b/a Adelpia Cable Communications to construct and operate a cable system and offer cable service and other data and communications services in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the boundaries of the City of Vanceburg, for a period of fifteen (15) years commencing September 7, 2000. The Ordinance sets forth standards for the services to be provided, the regulations imposed by the City, matters pertaining to insurance, indemnification, and bonds to be provided by franchisee, a procedure for compliance and monitoring and provisions for enforcement and termination of the franchise.

The full text of each section that imposes fines, penalties, forfeitures, taxes or fees are as follows:

*4.5 Franchise Fee. Grantee shall pay to the Franchising Authority a franchise fee equal to three percent(3%) of the Gross Revenues (as defined in Section 1.1 of this Ordinance) received by Grantee on an annual basis. The Franchise Fee payment shall be due and payable ninety (90) days after the close of the annual period for each calendar year, but the first accounting period shall commence with the first month immediately following that month in which this Ordinance is adopted. Each payment shall be accompanied by a statement from a representative of Grantee showing the basis for the computation.*

A copy of the full text of said Ordinance is available for public inspection at the City Building, 615 Second Street, Vanceburg, Kentucky, during regular business hours, Monday through Friday.

  
Jeana Billman, Clerk, City of Vanceburg



AN ORDINANCE APPROVING ASSIGNMENTS OF COMMUNITY CABLE TELEVISION SYSTEM FRANCHISES HERETOFORE GRANTED BY THE CITY COUNCIL OF VANCEBURG TO JAMES R. WITHROW

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY:

That L. C. Cablevision Partners, d/b/a Lewis County Cable Vision, is hereby authorized to assign unto Century Ohio Cable Television Corp, a Florida partnership, the following Franchises For Operating Community Cable Television Systems heretofore granted to the said L. C. Cablevision Partners by the Council of the City of Vanceburg, Kentucky, viz:

1. A franchise granted on October 15, 1984, by Ordinance No. 450.03; and
2. A franchise granted on September 17, 1983, by Ordinance No. 450 2.

The assignment and transfer authorized hereby shall not become effective unless and until the Closing of the sale of the assets of L. C. Cablevision Partners to Century Ohio Cable Television Corp. and the assignment of the aforesaid franchises at such closing. L. C. Cablevision Partners shall notify the Fiscal Court in writing upon such assignment.

This ordinance shall become effective immediately upon passage and publication.

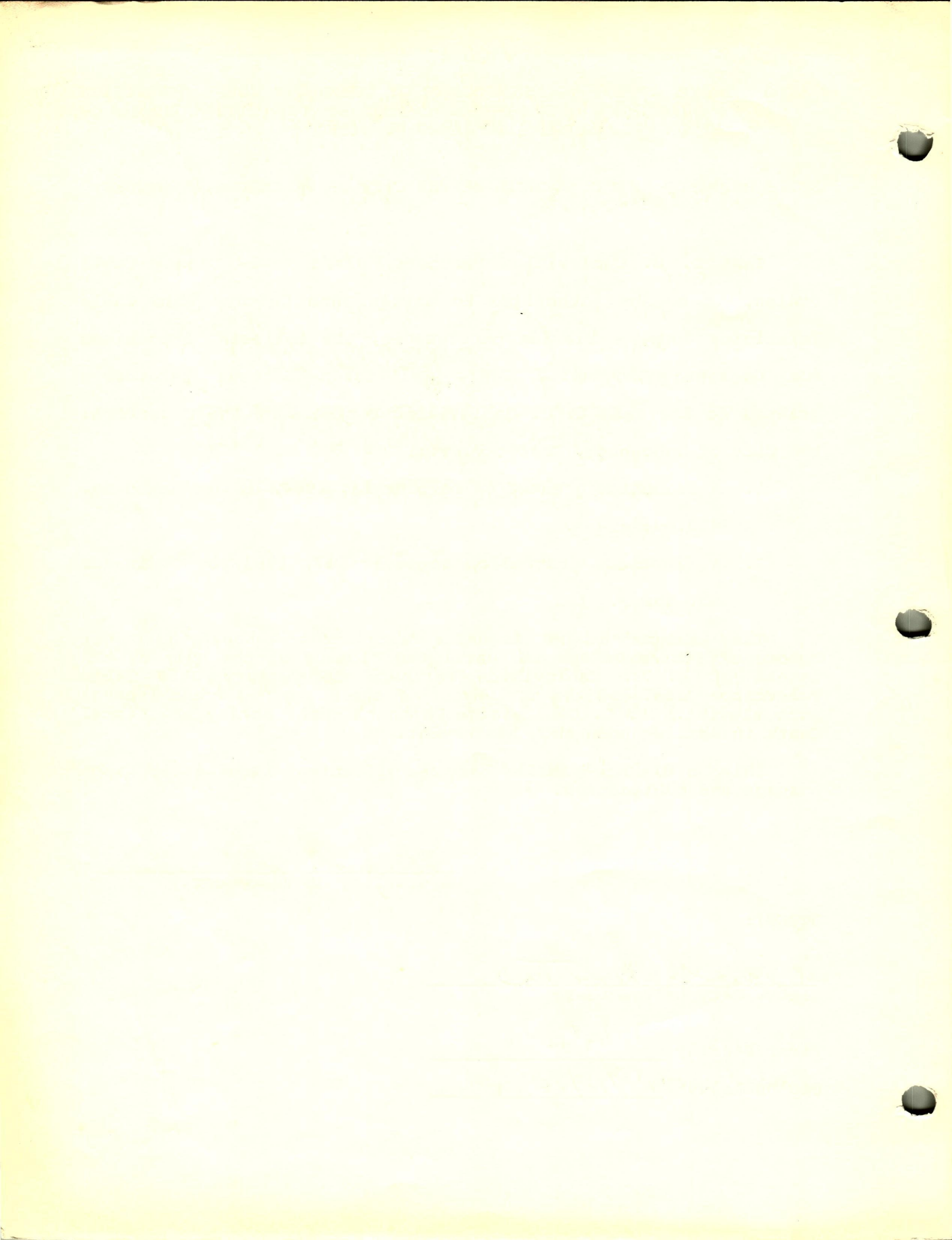
M. J. "Pat" Cooper  
Mayor, City of Vanceburg

ATTEST:

Brenda Stoughton  
Clerk, City of Vanceburg

First Reading 12/17/86

Second Reading 12/18/86



AN ORDINANCE APPROVING ASSIGNMENTS OF COMMUNITY CABLE TELEVISION SYSTEM FRANCHISES HERETOFORE GRANTED BY THE CITY COUNCIL OF VANCEBURG TO JAMES R. WITHROW

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY:

That L. C. Cablevision Partners, d/b/a Lewis County Cable Vision, is hereby authorized to assign unto Century Ohio Cable Television Corp, a Florida partnership, the following Franchises For Operating Community Cable Television Systems heretofore granted to the said L. C. Cablevision Partners by the Council of the City of Vanceburg, Kentucky, viz:

1. A franchise granted on October 15, 1984, by Ordinance No. 450.03; and
2. A franchise granted on September 17, 1983, by Ordinance No. 450 2.

The assignment and transfer authorized hereby shall not become effective unless and until the Closing of the sale of the assets of L. C. Cablevision Partners to Century Ohio Cable Television Corp. and the assignment of the aforesaid franchises at such closing. L. C. Cablevision Partners shall notify the Fiscal Court in writing upon such assignment.

This ordinance shall become effective immediately upon passage and publication.

M. J. "Pat" Cooper  
Mayor, City of Vanceburg

ATTEST:

A COPY ATTEST:

Brenda Washington  
Clerk, City of Vanceburg

M. J. "Pat" Cooper  
Mayor, City of Vanceburg

First Reading 12/17/86

Second Reading 12/18/86



AN ORDINANCE RELATING TO A TELEPHONE  
AND COMMUNICATIONS FRANCHISE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG,  
KENTUCKY:

Section 1 - There is hereby created a franchise to construct, erect, operate and maintain upon, through, along, under, and over the streets, alleys, avenues, public roads, highways, bridges, viaducts, sidewalks, and other public ways of the City of Vanceburg, Kentucky, a telephone and communications system embracing underground conduits, manholes, telephone poles, cables, boxes, wires, fixtures, electrical conductors, and other apparatus, equipment, and facilities necessary, essential used, or useful to and in the operation of a telephone and communications system, subject to all of the provisions of this ordinance.

Section 2 - For brevity, the person, firm, or corporation which shall become the purchaser of said franchise, or any successor or assignee of such person, shall be referred to as the "company"; the City of Vanceburg, Kentucky shall be referred to as the "city"; the public streets, alleys, avenues, public roads, highways, bridges, viaducts, sidewalks, and other public ways (as the same now exist and including all which may be established or created) within the territorial limits of the city shall be referred to as the "streets"; the underground conduits, manholes, telephone poles, cables, boxes, wires, fixtures, electrical



conductors, and any other apparatus, equipment and facilities necessary, essential, used, or useful to and in the operation of the telephone and communications system shall be referred to as the "equipment and apparatus."

Section 3 - The company acquiring this franchise shall have the right and privilege of constructing, erecting, operating, and maintaining a telephone and communications system, equipment and apparatus, upon, through, along, under, and over the streets within the corporate boundaries of the city as they now exist or may hereafter be extended, subject to the provisions hereof and to all powers (including police power) inherent in, conferred upon, or reserved to said city.

Section 4 - (1) No pavements, sidewalks, curbs, gutters, or other such street installations shall be disturbed and no excavation in any of the said streets will be made, except with the written permission of the city through a designated employee or official.

(2) When an emergency arises which requires immediate repair, the company may disturb or excavate a street without first obtaining written permission from the city; provided that the city is notified in writing of said repair within five (5) days. This notification shall include at least the time, date, location, and extent of excavation or other work performed.

(3) When the company shall enter upon any street for the purpose of constructing, erecting, operating,



maintaining, and/or removing equipment and apparatus, it shall prosecute the work, at its own cost and expense, with due diligence and shall dig and close up all trenches and exposed places as rapidly as possible, and shall leave the streets in reasonably the same conditions as prior to its entry. All such repairs shall be maintained by the company for one (1) year in as good condition as the remainder of said street. In the event the company fails, refuses, or neglects to comply with the above provisions, the city shall have the right, after notice in writing having first been given to the company or any officer or agent representing it, to do said work or make said repairs, and the cost and expense thereof shall be paid to the city by the company within thirty (30) days from the date on which an itemized bill is presented to the company.

(4) In the construction, reconstruction, maintenance, or removal of any of said equipment and apparatus, the company shall have due regard for the rights of the city and others, and shall avoid interference with and injury to the property of the city or others. Said purchaser shall comply with all the laws of the Commonwealth of Kentucky and ordinances of the city as to placing lights, danger signals, or warning signs. Such work by the company shall be done in a workmanlike manner and so as not to unnecessarily interfere with public use of any of said streets.

Section 5 - (1) Whenever the city or any of its departments, agencies, and/or agents, servants, or employees shall

grade, regrade, construct, reconstruct, widen, or alter any street or shall construct, reconstruct, repair, maintain, or alter any other municipal public works therein (including but not limited to storm sewers, sanitary sewers, and street lights), it shall be the duty of the company, when so ordered by the city, within a reasonable time to change its equipment and apparatus in the street at its own expense so as to conform to the established grade or line of such street so as not to interfere with such municipal public works so constructed, reconstructed, or altered.

(2) The company shall be given access to the street plans and specifications, and any proposed modifications to such, in the possession of the city.

Section 6 - Upon notice from the city, given reasonably in advance, that any street is planned to be constructed, reconstructed, widened, altered, paved, or repaved, the company shall make such extensions or changes in its equipment and apparatus, ahead of any paving, as shall be reasonably expected during the following one (1) year period; provided that if the company deems that no extension or change will be required during such period, it may refrain from doing so, but shall be precluded from disturbing the paving for such purposes for a period of one (1) year unless permission of the city is obtained.

Section 7 - The minimum clearance of wires and cables placed above the streets of the city, and also the placement of underground facilities, shall conform to the standards of the latest edition of the National Electrical Safety Code, National

Bureau of Standards, U.S. Department of Commerce. The city reserves the right to require, by ordinance, observation of greater standards of safety than those contained in such Code.

Section 8 - The company agrees by the acceptance of this franchise to indemnify, keep, and save the city free and harmless from liability on account of injuries or damage to persons or property growing out of the construction, maintenance, repair, and operation of its equipment and apparatus located upon, through, along, under, or over the city's streets. If any suit to enforce such liability shall be brought against the city, either independently or jointly with the company, upon notice by the city the company shall defend the city at the cost of the company and, in the event of final judgment being obtained against the city either independently or jointly with the company, the company shall pay such judgment with all costs and hold the city harmless therefrom.

Section 9 - The city, through its Council, Mayor, or such assistants as it may employ or designate, at all reasonable times, may have access to the equipment and apparatus installed under this franchise for the purpose of inspecting or examining it, and may inspect, examine, or verify all or any of the accounts, books, records, contracts, documents, or papers of the company reasonably necessary to the administration of this franchise.

Section 10 - The franchise hereby created shall be for a set term of five (5) years from and after the date the same

shall become effective, but is not exclusive, and the city reserves the right to sell similar franchises to others.

Section 11 - The company is hereby given the right to assign the franchise created by this ordinance to any person, firm, or corporation able, ready, and willing to carry out the terms of this franchise, but prior to such assignment, shall obtain consent from the city to such assignment, which consent shall not be unreasonably withheld.

Section 12 - Bids offered for the sale of this franchise shall state the amount of consideration offered in exchange for the grant of this franchise. *The Successful bidder shall pay the costs of printing and advertising the bid as part of the cost for said franchise.*

Section 13 - (1) The consideration set forth in the preceding section shall be paid and received in lieu of any tax, license, charge, fee, street or alley rental, or any other character of charge for the use and occupancy of the streets. It shall further be in lieu of any pole tax, inspection fee tax, easement tax, franchise tax (whether levied as an ad valorem, special, or other character of tax), and any other tax, license, fee, or imposition other than the usual general or special ad valorem property taxes now or hereafter levied.

(2) Should the city not have the legal power to declare that the payment of the foregoing consideration shall be in lieu of such taxes, licenses, fees, and impositions, then the city declares that, should any such tax, license, fee, or other imposition be imposed upon the company, then to the extent



necessary, the consideration to be paid hereunder shall be applied toward the satisfaction of such obligations.

Section 14 - It shall be the duty of the Mayor, or a subordinate designated by the Mayor, as soon as practicable after the passage of this ordinance, to offer for sale said franchise and privilege. Said franchise and privilege shall be sold to the highest and best bidder at a time and place fixed by the Mayor after due notice thereof has been given by advertisement in at least one (1) issue of a newspaper of general circulation within the territorial limits of the city. Such advertisement shall appear not less than seven (7) days nor more than twenty-one (21) days before the date bids are to be received. In addition to such advertisement, written notice of the proposed sale shall be given to the holder of the current or most recently expired telephone communications franchise at least twenty-one (21) days before the date bids are to be received.

Section 15 - (1) Bids and proposals for the purchase and acquisition of the franchise and privileges hereby created shall be in writing and shall be delivered to the Mayor or his designated subordinate upon the date and at the time fixed in said advertisement for the receipt of such.

(2) Bids offered for purchase of this franchise shall state the bidder's acceptance of the conditions set forth in this ordinance.

(3) Each bid shall be accompanied by cash or a certified check drawn upon a bank of the Commonwealth of

Kentucky, or a national bank, equal to five percent of the fair estimated cost of the equipment and apparatus to be placed under the franchise created by this ordinance, which check or cash shall be forfeited to the city in case the bid should be accepted and the bidder should fail, for thirty (30) days after the confirmation of the sale, to pay any consideration then due and to give a good and sufficient bond in the sum equal to one-fourth of the fair estimated cost of the equipment and apparatus to be erected, conditioned that it shall be enforceable in case the purchaser should fail, within nine (9) months, to install the equipment and apparatus contemplated to be provided pursuant to the franchise created by this ordinance; but such deposit and bond need not be made by a corporation or person already owning within the territorial limits of the city the equipment and apparatus contemplated by the franchise created by this ordinance.

(4) Any cash or check remitted by an unsuccessful bidder shall be returned.

Section 16 - At the first regular meeting of the Council following the receipt of such bids, the Mayor shall report and submit to the Council all bids and proposals for acceptance of bids. Acceptance of a bid shall be expressed by an ordinance. The Council reserves the right, for and in behalf of the city, to reject any and all bids for said franchise and privilege. In case the bids reported by the Mayor shall be rejected by the Council, it may direct, by resolution or ordinance, that said



franchise and privilege be again offered for sale, from time to time, until a satisfactory bid therefor shall be received and accepted.

Section 17 - A successful bidder shall remit the full amount of its bid within thirty (30) days after the bid is accepted by the city. Upon receipt by the city, the amount so remitted shall constitute the consideration paid for the rights conferred by the granting of this franchise and the compensation to the city for its superintendence of the franchise.

Section 18 - Any granting of the franchise created hereby shall include the obligation of the city to provide, at least eighteen (18) months before its expiration, for the sale of a new franchise to the highest and best bidder on terms that are fair and reasonable to the city, to the existing holder of the franchise, and to its patrons.

Section 19 - Any violation by the company, its vendee, lessee, or successor of the provisions of this franchise or any material portions thereof, or the failure promptly to perform any of the provisions thereof, shall be cause for the forfeiture of this franchise and all rights hereunder after written notice to the company and continuation of such violation, failure, or default.

Section 20 - The franchise created by this ordinance shall become effective upon acceptance of the company's bid, as expressed in the ordinance of acceptance.



Section 21 - This ordinance shall become effective on the date of its passage.

Passed at a regular session of the City Council of the City of Vanceburg, Kentucky, this the 15<sup>th</sup> day of August, 1989.

M. J. "Pat" Cooper  
MAYOR

Attest:

Jana Spisak  
CLERK

1st Reading Aug 14, 1989  
2nd Reading Aug 15, 1989

Vote    5 yes  
         0 no



ORDINANCE NO. 450.07

AN ORDINANCE AWARDING THE BID FOR A  
TELEPHONE AND COMMUNICATIONS FRANCHISE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
VANCEBURG, KENTUCKY:

SECTION 1. Pursuant to Ordinance No. 450.06 the  
City of Vanceburg, Kentucky, duly created, advertised for and received  
bids for a telephone and communications franchise.

SECTION 2. That after duly advertising the request for bids  
pursuant to Sections 14, 15 and 16 of said Ordinance No. 450.06, one  
bid was received.

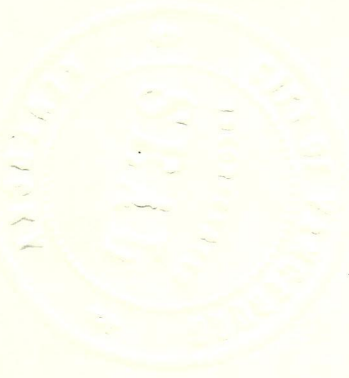
SECTION 3. Said Telephone and Communciations Franchise is  
therefore awarded to the sole bidder, GTE South, in the amount of  
\$ 650.00 plus costs,

First Reading: Oct 2, 1989

Second Reading: Dec 4, 1989

Tom J. "Pat" Cooper  
MAYOR, CITY OF VANCEBURG,  
KENTUCKY

Jana Gyurik  
CITY CLERK



ORDINANCE NO. 450.08

**AN ORDINANCE OF THE CITY OF VANCEBURG, KENTUCKY  
PROHIBITING BEGGING OR SOLICITING ALMS OR MONEY UPON THE  
PUBLIC STREETS IN THE CITY**

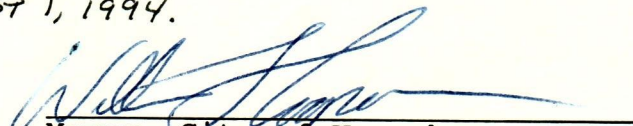
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG:

Section 1. No person shall beg or solicit, by any means whatever, alms or money upon the public streets or at the intersections of said public streets within the city limits of the City of Vanceburg, Kentucky.

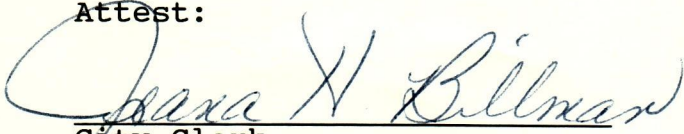
Section 2. Any person who violates the provisions of this ordinance shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or be imprisoned for not less than ten (10) days nor more than thirty (30) days or both for each offense.

First Reading : July 11, 1994.

Second Reading: AUGUST 1, 1994.

  
\_\_\_\_\_  
Mayor, City of Vanceburg

Attest:

  
\_\_\_\_\_  
City Clerk

