

COUNTY OF OHIO

ALCOHOL BEVERAGE CONTROL ORDINANCE #2017-5

BE IT ORDAINED BY THE COUNTY OF OHIO THAT:

WHEREAS, the County of Ohio is a dry county containing at least one qualified city therein; and

WHEREAS, on January 24, 2014 the voters of the City of Hartford, Kentucky, by majority vote approved the sale of alcohol in Hartford, Kentucky, and

WHEREAS, at this time the City of Hartford is not a qualified city so as to collect a regulatory fee for those individuals and businesses selling alcoholic beverages within the city limits of the City of Hartford, and

WHEREAS, the County of Ohio may be statutorily authorized to enact regulatory ordinances and collect regulatory fees for those individuals and businesses selling alcoholic beverages within the city limits of the City of Hartford, and

WHEREAS, the County of Ohio enacts this ordinance within the sixty (60) days required from voter approval of alcohol sales so as to permit the County of Ohio to collect said fees.

NOW THEREFORE:

At the time of enactment of this ordinance, there are conflicting opinions as to whether the County of Ohio, being a dry county with at least one qualified city therein, is permitted to assess regulatory fees with respect to the sale of alcoholic beverages within the City of Hartford. The County of Ohio would prefer a Kentucky Attorney General opinion and/or Circuit Court opinion as to whether regulatory fees can be assessed by the County of Ohio on alcohol sales in the City of Hartford. However, as a result of certain statutes relating to the specific time frame in which a regulatory fee ordinance must be enacted; the County of Ohio enacts this ordinance. The County of Ohio does not intend to enforce this ordinance in any way without first obtaining a Kentucky Attorney General opinion and/or Circuit Court opinion as to the legality of same.

ARTICLE I GENERAL PROVISIONS

A. This Ordinance shall be known as the "Alcoholic Beverage Control Ordinance" of County of Ohio, Kentucky (hereinafter referred to as the "County").

B. The purpose of this Ordinance is to establish uniform regulations and requirements for the regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS Ch. 241 through 244.

C. The definitions of the words used throughout this ordinance, unless the context requires otherwise, shall have the same meaning as those set out in the alcoholic beverage control laws (KRS Ch. 241 through 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

D. This Ordinance shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this ordinance shall excuse or relieve the licensee, or the owner, proprietor, employee, agent, or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements, and penalties of any other ordinance of the City of Hartford, Ohio County, or of any statutes of the state relating to violations pertaining to alcoholic beverages.

E. The term licensee shall mean those individuals or businesses licensed by the City of Hartford to sell alcohol.

F. The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Ch. 241 through 244) and all amendments and supplements thereto, are adopted so far as applicable to this Ordinance except as otherwise lawfully provided herein.

ARTICLE II COUNTY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR

A. Alcoholic Beverage Control Administrator

(1) Pursuant to KRS 241.160 and KRS 241.170, there is hereby created the office of the Ohio County Alcoholic Beverage Control Administrator ("County ABC Administrator").

(2) The Judge Executive of the County shall appoint an individual to serve as the County ABC Administrator, subject to approval of the Ohio Fiscal Court.

(3) The salary for the Office of County ABC Administrator, together with the salaries of any other personnel assisting the County ABC Administrator, if any, shall be fixed from time to time by the Ohio Fiscal Court.

(4) The County ABC Administrator may from time to time appoint such additional personnel, such as Alcohol Beverage Control investigator(s), as is necessary to assist him or her in the administration of this ordinance, any City of Hartford alcohol ordinance and/or any state law or regulation. Any such appointments shall be subject to the approval of the Judge Executive and Ohio Fiscal Court.

(5) The functions of the County ABC Administrator shall be the same with respect to the Hartford city licenses and County regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations, and the County ABC Administrator and/or any assistant ABC Administrator shall have all authority as authorized under KRS Chapters 241 through 244, and other relevant state statutes. Further, the County ABC Administrator and Ohio County Sheriff Department officers are authorized to enforce this ordinance for violations. The County ABC Administrator and any investigator acting under the authority of the County ABC Administrator, shall have the full police powers of peace officers within the boundaries of the City of Hartford and 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.

(6) Should the County ABC Administrator or any assistant ABC Administrator(s) at any time have probable cause to believe that any applicant, licensee, employee of a licensee or any stockholder, agent, or employee of a licensed corporation, or any member of any company has a criminal record, he or she shall have the authority to require such person to appear in person at the Ohio County Sheriff Department for the purpose of having his or her fingerprints taken.

(7) To prevent potential conflicts of interests, no person shall be a County ABC Administrator, an investigator, or an employee of Ohio County, under the supervision of the County ABC Administrator, who would be disqualified to be a member of the ABC Board under state law set forth in KRS 241.100.

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

(9) The County ABC Administrator, before entering upon his or her duties, shall take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars (\$1,000.00), the cost of which shall be paid by the County. Any employee delegated or assigned to the ABC Administration may also be asked to execute a similar bond in such penal sum as the County deems necessary unless said person is already covered under the County's active bonds as required under KRS in regards to officials and employees of the County.

B. Appeals

(1) Appeals from the orders of the County ABC Administrator may be taken to the state ABC Board by filing with the Board within thirty (30) days a certified copy of the orders of the County ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the County ABC Administrator shall be governed by KRS Chapter 13B.

(2) When any decision of the County ABC Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the City of Hartford, and the ABC Board shall have made a decision regarding such appeal or protested application, the County ABC Administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by the final order of the ABC Board. As provided by law, and as used herein, no order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A "final order" of the ABC Board is the order entered by said Board, unless an appeal is taken from the Board's order, in which case the "final order" is the order entered by the Board upon direction from the reviewing court of last resort in the final order of said reviewing court.

**ARTICLE III
HOURS FOR SALE**

A. Hours for Sale

(1) An alcoholic beverages licensee shall be permitted to sell or dispense alcoholic beverages between the hours of 6:00 a.m. CST until 12:00 a.m. CST (midnight), Monday – Sunday as provided in the City of Hartford alcohol ordinance.

(2) Licensees must obtain a Sunday retail drink license in order to sell malt beverages, distilled spirits, or wine by the drink on Sunday.

(3) A licensee may sell and dispense alcoholic beverages on New Year’s Eve until 2:00 a.m. C.S.T. on January 1, regardless of the day of the week on which New Year’s Eve occurs; provided that the appropriate licenses have been obtained from both the City of Hartford and the State ABC Board.

(4) All delivery of alcoholic beverages in the City of Hartford shall be made between the hours of 6:00 a.m. CST and 12:00 a.m. CST (midnight), Monday through Saturday. No delivery shall occur on Sunday.

**ARTICLE IV
CONDITIONS, PROHIBITIONS AND RESTRICTIONS**

A. Gambling

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, quarter pushers, prize redemption machines with programmable payouts, or any device of chance is prohibited and shall not be kept on such premises.

B. Radio Receiving Apparatus

It shall be unlawful for any licensee 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 Ohio County as it is now, or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Ohio County Sheriff or the County ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

C. Security

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

D. Prizes and Premiums Prohibited

It shall be unlawful for a licensee to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of malt beverages unless permitted by KRS 244.500.

E. Treating Prohibited

It shall be unlawful for the licensee under this Ordinance to give away any alcoholic beverage in any quantity for free or for less than a full monetary consideration unless the licensee holds a sampling license or its license type permits limited free samples (i.e., small farm winery, microbrewery, brewer's) or products are sampled at educational event authorized by 804 KAR 1:110 and 804 KAR 11:030.

F. Drunkenness

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

G. Underage Sales

The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

H. Sign Requirements-Notice to Persons Under the Age of Twenty-One (21)

Per state law, the licensee shall display at all times in a prominent place a sign at least 8" x 11" in thirty (30) point or larger type font which states as follows:

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

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

I. License to be Displayed

(1) Pursuant to the requirements set forth in KRS 243.895, the Licensee, before commencing any business for which a Hartford license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon premises

where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(2) The licensee shall post in a prominent place easily seen by patrons a printed sign at least 11" x 14" in size, with letters at least one (1) inch high, supplied by the Department of Alcoholic Beverage Control, and with gender-neutral language supplied by the Kentucky Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this section shall be subject to a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00).

J. Legal Transactions for Wholesalers, Distributors and Retail

No wholesaler or distributor shall sell any alcoholic beverages to any person in the City of Hartford for any consideration except under cash terms of the wholesaler or distributor at or before the time of delivery. A wholesaler is also permitted to extend credit for 30 days to a retailer for the purchase of distilled spirits and wine. No retail licensee shall sell to a consumer for any consideration except for cash or case equivalent at time of purchase.

K. Employment Restrictions

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

(1) Has been convicted of any felony within the last two (2) years unless permitted by KRS 244.090(2);

(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 unless permitted by KRS 244.090(2);

(3) Is under the age of eighteen (18) years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute, unless said person is exempt or permitted by KRS 244.090 or KRS 244.087;

(4) Within two (2) years prior to the date of his or her employment, has had any Hartford city alcohol license revoked for cause.

Violation of this subsection (K) shall, subject both employer and employee to penalties provided in this Ordinance and shall be cause for revocation of license

L. Lavatory Facilities Required

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

M. Cause for Revocation

Violation of this and any other Article shall subject the licensee to penalties provided in this Ordinance.

**ARTICLE V
MINORS**

- A.** Except as specifically authorized under KRS Chapters 241 through 244, no person under the age of 21 may possess alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages.
- B.** As provided in KRS 244.085, no person under the age of 21, except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. No person under the age of 21 may enter any premises licensed for drink sales of alcoholic beverages unless permitted by KRS 244.085(6). For purposes of this prohibition, "premises" specifically encompasses the entire lot upon which a licensed establishment is situated, including any drive-up window. The prohibition contained in this this Subsection shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, or similar establishment.
- C.** No person shall knowingly permit, aid, assist, induce, cause, or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licenses, as issued by the City of Hartford, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.
- D.** No person being the owner or occupant or otherwise in possession or control of any property located within the City of Hartford shall knowingly allow any minor to remain on such property while in possession of, using, or consuming alcoholic beverages.
- E.** It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption, or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.090 or KRS 244.087.

**ARTICLE VI
CONSUMPTION ON PREMISES PROHIBITED**

A. Consumption at Package Store Prohibited

(1) No licensee of a package store, whether trafficking in distilled spirits, wine, or malt beverages, shall permit consumption of alcoholic beverages on the premises unless it also holds the appropriate drink license. The licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.

(2) This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries and wineries under the provisions of KRS Chapter 243, or where sampling is permitted for a retail distilled spirits and wine licensee under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:030.

B. Habitual Congregating

(1) Definitions. In addition to the definitions contained in KRS Chapters 241 through 244, as used in this Article, the following terms are defined as follows:

(a) *Habitual* shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;

(b) *Package Liquor Store* shall mean a retail establishment selling distilled spirits, wine, and malt beverages in package containers pursuant to licenses issued for those purposes;

(c) *Public Nuisance* shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by, or the health, safety, and welfare of the public; and

(2) Licensed Premises. No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine, or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.

(3) It shall be a defense to any prosecution under Article VI, if a licensed vendor or property owner maintains a legible, painted, or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons in prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.

ARTICLE VII MALT BEVERAGE KEG REGISTRATION

A. Definitions

As used in this section, "Keg" is defined as a container designed and capable of holding six (6) or more gallons of malt beverage.

B. Malt Beverage Keg Identification Tag

All retail licensees (herein after referred to as "licensee") operating within the City of Hartford who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the City of Hartford to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:

(1) The purchaser is of legal age to purchase, possess and use the malt beverage;

(2) The purchaser is not purchasing the keg for resale and will not allow any person under the age of twenty-one (21) to consume the malt beverage;

(3) The purchaser will not remove, obliterate or allow to be removed or obliterated the Identification tag;

(4) The purchaser will state the property address where the keg will be consumed and physically located; and

(5) The purchaser is aware of his/her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

C. Keg Registration

(1) The licensee shall obtain the name, address, and telephone number of the purchaser and shall require the purchaser to produce a valid driver’s license number and, if that is not available, to produce at least one other valid form of identification.

(2) The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.

(3) The keg registration form shall be forwarded to Ohio County within five (5) working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.

(4) Ohio County is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

(5) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the County or City of Hartford concerning the provisions of this section.

D. Unlawful Sales

It shall be unlawful for any licensee to sell or offer for sale kegs without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have the declaration form visible and readily accessible from the location of the keg. The penalties for violation of this section shall be the penalties as set out in this Ordinance. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

**ARTICLE VIII
ENFORCEMENT**

A. The Ohio County Sheriff Department, or other authorized law enforcement officers, and the County ABC Administrator and his/her Investigator(s) are hereby authorized to enforce this Ordinance in full.

**ARTICLE IX
PENALTIES**

A. Penalties

(1) In addition to any criminal prosecution instituted in Ohio District Court or by issued warrant against an alleged violator, the County ABC Administrator may assess civil fines in lieu of suspension as authorized in KRS 243.480, including the per diem assessments for ongoing violations. Payment of all fines shall be remitted to the County ABC Administrator, who shall then transmit the fines to the County Treasurer for deposit in the appropriate designated account.

(2) Any person, firm, or corporation who violates any of the provisions of this ordinance, for which no other penalty is hereby provided, shall be guilty of a Misdemeanor, and subject to prosecution in the Ohio County Court System, as follows: for the first offense, be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), or imprisoned for not more than six months, or both. The penalties provided for

in this subsection shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

ARTICLE X MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING

A. Mandatory Responsible Beverage Service Training

(1) All persons employed in the selling and/or serving of alcoholic beverages shall participate in and complete the Department of Alcoholic Beverage Control's STAR program or other Responsible Beverage Serving ("RBS") program approved by the Department of Alcoholic Beverage Control.

(2) All persons required to complete training under Section 1 above shall complete that training within sixty (60) days of the date on which the person first becomes subject to the training requirement.

(3) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the County ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed hereunder must at all times when alcoholic beverages are being served have at least one person currently certified in responsible beverage service training on duty as described herein.

(4) All persons completing the training required by this section shall be re-certified not less than once every three (3) years thereafter.

ARTICLE XI SIGNS AND ADVERTISING

A. All signage shall be in compliance with any and all other existing rules, regulations, and Ordinances of the City of Hartford and/or Ohio County, including but not limited to, the Hartford/Beaver Dam Planning and Zoning Ordinance as currently enacted, and/or as may be amended in the future.

B. Any advertising by any licensee under this ordinance shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

C. It shall be unlawful for any person holding a license under this ordinance to sell alcoholic beverages of any kind, to give away or offer to give away anything tangible of value as a premium or price or for any other purpose in connection with the sale of alcoholic beverages.

ARTICLE XII PATIO AND OUTDOOR SALES

A. Restaurant and hotel licensees under this Ordinance are allowed to make licensed sales of alcoholic beverages on patios and other outdoor locations so long as such activities are conducted upon the licensed premises and under the exclusive possession and control of the licensee.

B. Any food establishment which operates a restaurant and is licensed under this Ordinance and the provisions of the state ABC code, may, upon application to the local ABC Administrator, ask permission to expand the operation of that restaurant onto a part, and only that part, of the public sidewalk which immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit.

C. Conditions for Sidewalk Café Permit

The issuance of a permit shall be subject to the following conditions and restrictions; provided, however, that the ABC Administrator may without adverse hearing procedures impose additional reasonable restrictions or withdraw approval upon the operation of any sidewalk café where necessary in the judgment of the said Administrator to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing:

(1) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of thirty-six (36) inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.

(2) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. They shall be removed at the end of each business day at the hour specified in the permit. Umbrellas, tables, chairs, and other portable appurtenances shall be confined to the area shown on the approved Permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

(3) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.

(4) The licensee shall, in addition to all other requirements of law, take reasonable steps to ensure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passersby or persons who are not of age or who are obviously or apparently intoxicated.

(5) No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.

(6) At no time, shall any music originating from any part of the premises create a nuisance.

(7) The permit for sidewalk café may not be assigned or transferred.

D. Other Requirements Applicable to Sidewalk Cafes

No sidewalk café permit shall be effective unless the licensee has filed with the County Administrator evidence of insurance, insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of such sidewalk café, in an amount to be established by City of Hartford or County of Ohio.

**ARTICLE XIII
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 of Hartford. The initial regulatory license fee shall be 6% of gross sales of alcoholic beverages, or as otherwise determined to meet the statutory requirements.
- B.** Payment of such regulatory fees shall be remitted to the County ABC Administrator, and shall be held in a separate account maintained for the purpose of fully reimbursing the County for any estimated costs of any policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the City of Hartford. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law; except that, a credit against a regulatory license fee in the County shall be allowed in an amount equal to any licenses or fees imposed by the County pursuant to KRS 243.070, if any. Payment of the regulatory license fee shall accompany the fee returns approved for such use by the Ohio Fiscal Court. These returns and payments are due no later than by the end of the month immediately following each calendar month.
- C.** Failure to pay such monthly remittance within ten (10) 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 monthly remittance by the due date is 5% of the fee due for each 30 days or fraction thereof. The total late filing penalty shall not exceed 25% of the fee due; provided, however, that, in no case shall the penalty be less than \$10.00.
- 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 the effective year of this section, the Ohio Fiscal Court 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 regulatory license fee, the Judge Executive shall cause the County's auditor to audit the regulatory license fee account to insure compliance with KRS 243.075, and in conjunction with the County Treasurer, to recommend, based upon the experience of the prior year, a fee rate for the ensuing year. The Auditor shall report his/her findings to the Ohio Fiscal Court and in addition to the regulatory license fee, recommend any action he/she deems necessary to insure compliance with KRS 243.075.

**ARTICLE XIV
COST OF ADDITIONAL POLICE PROTECTION FOR TEMPORARY EVENT**

- A.** If it is deemed necessary in the discretion of the County ABC Administrator, the licensee may be required as a condition of receiving a special temporary license, to contract directly with the County (by and through the Ohio County Sheriff Department), at the expense of the licensee, to provide adequate security for the qualifying event.

**ARTICLE XV
IMPLEMENTATION OF ORDINANCE PROVISIONS; SEVERABILITY**

A. Implementation of Changes in Ordinance Provisions

The Ohio Fiscal Court may promulgate rules and regulations, and/or amendments thereto, as is in its discretion in order to ensure the proper implementation of this Ordinance. Such will be done as according to local, state, and federal law.

B. Severability

If any section of this Ordinance, including but not limited to, any section, subsection, paragraph, sentence, clause, phrase, or any other portion of this Ordinance, is declared illegal or unconstitutional, or otherwise invalid by a Court of competent jurisdiction, such declaration shall not affect the remaining portions hereof.

C. CITY OF HARTFORD REGULATORY FEE

Should Ohio County not be able to tax and collect any regulatory fee, then this ordinance shall not have any effect whatsoever and shall be considered null and void at that time. Further, should the City of Hartford itself be able to collect a regulatory fee then this ordinance shall be amended or rescinded to allow said City to collect any and all fees so permitted.

**ARTICLE XVI
EFFECTIVE DATE**

This ordinance shall become effective upon passage and publication as required by law.

First Reading: March 14, 2017
Second Reading: March 23, 2017
Passed and adopted: _____, 2017

DAVID JOHNSTON
OHIO COUNTY JUDGE EXECUTIVE

Attest:

ANNE MELTON, TREASURER