

ORDINANCE 18-2024

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE I, SECTION 3-8 OF THE OWENSBORO MUNICIPAL CODE TO EXPAND THE SALE OF ALCOHOLIC BEVERAGES ON ST. PATRICK'S DAY WHEN THAT HOLIDAY FALLS ON A SUNDAY, FROM 6:00 A.M. UNTIL 2:00 A.M. THE FOLLOWING DAY; AMENDING ARTICLE II, SECTION 3-29 TO INCLUDE PAYMENT OF TRANSIENT ROOM TAX AS A CONDITION FOR ISSUING OR RENEWING A LICENSE; AMENDING ARTICLE II, SECTION 3-31 TO ALLOW FOR THE ISSUANCE OF A LIMITED GOLF COURSE LICENSE AND TO ELIMINATE REFERENCES TO LICENSE FEES CHARGED FOR PRIOR YEARS; AND AMENDING VARIOUS OTHER SECTIONS OF THE ALCOHOLIC BEVERAGE CONTROL ORDINANCE TO MAKE CORRECTIONS AND REVISIONS TO STATUTORY REFERENCES.

WHEREAS, Kentucky law prohibits the sale of alcoholic beverages on Sundays unless a local government passes an ordinance expanding the sale of alcoholic beverages in its jurisdiction; and

WHEREAS, citizens and businesses have requested that the City of Owensboro expand the sale of alcoholic beverages on St. Patrick's Day when that holiday falls on a Sunday, from 6:00 a.m. until 2:00 a.m. the following day; and

WHEREAS, Section 3-29 of the Alcoholic Beverage Control Ordinance states that a license shall not be issued or renewed if the applicant has failed to pay various taxes assessed by the City; and

WHEREAS, the transient room tax should be included among the taxes that must be paid by an applicant before a license may be issued or renewed; and

WHEREAS, KRS 243.039 allows for the issuance of a limited golf course license for the purchase and sale of distilled spirits, wine and malt beverages; and

WHEREAS, Section 3-31 of the Alcoholic Beverage Control Ordinance should be amended to include the limited golf course license among those licenses available in the City of Owensboro; and

WHEREAS, various other amendments to the Alcoholic Beverage Control Ordinance are needed to improve legibility and ensure that statutory references are correct.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:

Section 1. That Chapter 3, Article I, Section 3-4 of the Owensboro Municipal Code be, and the same is hereby amended, to read as follows:

Sec. 3-4. – Alcoholic beverage control administrator.

- (a) *Establishment of Office:* There is hereby established the office of “Alcoholic Beverage Control Administrator.”
- (b) *Appointment:* The city manager shall appoint an alcoholic beverage control administrator. The administrator may be removed from office at any time, with or without cause, by the city manager.
- (c) *Compensation:* The compensation of the alcoholic beverage control administrator shall be established by the city manager, with the approval of the board of commissioners.
- (d) *Oath; Bond:* The administrator, before entering upon the duties of the office, shall take the oath required of public officers and execute the surety bond in conformity with KRS 62.050, 62.060 and 241.170. [~~241.180~~]

(e) *Duties of Administrator:* The functions of the city alcoholic beverage control administrator shall be the same with respect to the city licenses and regulations as the functions of the alcoholic beverage control board of the commonwealth with respect to state licenses and regulations.

(1) The administrator shall perform all duties and functions within the corporate boundaries of Owensboro authorized and directed by KRS 241.190, and may adopt and promulgate any and all forms, rules and regulations reasonable and necessary to carry out the duties of the office. No rules or regulations adopted by the alcoholic beverage control administrator may be less stringent than the corresponding statutes relating to alcoholic beverage control, or than regulations adopted by the state alcoholic beverage control board. No regulation of the city alcoholic beverage control administrator shall become effective until it has first been approved by the city manager.

Section 2. That Chapter 3, Article I, Section 3-8 of the Owensboro Municipal Code be, and the same is hereby amended, to read as follows:

Sec. 3-8. - Hours for the sale of alcoholic beverages established; prohibited hours for the sale of alcoholic beverages; Sunday sales in qualified establishments; penalty.

- (a) All premises for which a license has been granted by the commonwealth and the city, to sell distilled spirits and wine and/or malt beverages, may remain open for business on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, from 6:00 a.m. until 2:00 a.m. the following day (prevailing time).
- (b) All premises for which a license has been granted by the commonwealth and the city, to sell distilled spirits and wine and/or malt beverages, may remain open for

business on Sunday, from 11:00 a.m. until 12:00 a.m. the following day (prevailing time), provided however, when Christmas Eve, ~~and~~ New Year's Eve and St. Patrick's Day fall on a Sunday, licensees may remain open on those holidays between the hours of 6:00 a.m. and 2:00 a.m. the following day.

- (c) Premises whose primary business is not the sale of alcoholic beverages may remain open for business during hours in which alcoholic beverages are not allowed to be sold, so long as the licensee keeps all distilled spirits and wine in a locked or closed off area.
- (d) Premises whose primary business is the sale of alcoholic beverages by the drink or package must be, during the closing hours, 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.
- (e) No alcoholic beverages of any kind may be sold on any other date, time or occasion when prohibited by federal or state law.
- (f) In addition to required state licenses, all licensees desiring to sell distilled spirits and wine by the drink on Sunday within the time prescribed hereinabove, must purchase the appropriate licenses from the city, through the alcoholic beverage control administrator, for the Sunday sales, as required in section 3-31.
- (g) Rebuttable presumption. If any distilled spirits, wine or malt beverages are kept on the outside of the locked and closed-off department of any licensed premises during any period of time in which the licensee is prohibited by law from selling distilled spirits, wine or malt beverages, a rebuttable presumption shall arise that such distilled spirits, wine or malt beverages were kept on the outside of the locked and closed-off department with the intention and for the purpose of sale in violation of the law and shall be grounds for revocation or suspension of the license.

Section 3. That Chapter 3, Article II, Section 3-26 of the Owensboro Municipal Code be, and the same is hereby amended, to read as follows:

Sec. 3-26. Required.

- (a) No person shall engage in any of the following businesses or activities within the city without first obtaining the required license from the city alcoholic beverage control administrator:
- (1) Retail sale of malt beverages by the package or drink;
 - (2) Wholesale distribution of malt beverages;
 - (3) Rectifier or distiller of distilled spirits or wine;
 - (4) The sale of wine at a restaurant facility which has a minimum seating capacity of fifty (50) or more people at tables, which facility receives fifty (50) percent or more of its gross annual income from food;
 - (5) Wholesale distribution of distilled spirits or wine;
 - (6) Retail sale of wine or distilled spirits by the package or drink;
 - (7) Activities for which special temporary licenses are authorized by sections 3-31 and 3-32;
 - (8) Operation of a private club, as defined in KRS 241.010~~[(38)]~~, which traffics in distilled spirits, wine or malt beverages for consumption on the premises;
 - (9) Retail sale of distilled spirits, wine, or malt beverages by a caterer as defined in KRS ~~[243.033]~~ 241.010 and the state administrative regulations;
 - (10) Retail sale of distilled spirits, wine or malt beverages from more than one (1) bar, counter or similar location under a single retail drink license;

(11) Sunday sales of wine, distilled spirits and/or malt beverages by the drink in qualified hotels, motels and restaurants under KRS 244.290 and KRS 244.480;

(12) Any other business or activity involving the manufacture, distribution or sale of alcoholic beverages for which a license is required under KRS 243.070.

(b) Any person violating any of the provisions of subsection (a) shall be punished by a fine of not less than twenty-five dollars (\$25.00), and not more than five hundred dollars (\$500.00), or by imprisonment for up to thirty (30) days or both such fine and imprisonment. Each incident involving the manufacture, distribution or sale of alcoholic beverages without the required license shall constitute a separate offense.

Section 4. That Chapter 3, Article II, Section 3-29 of the Owensboro Municipal Code be, and the same is hereby amended, to read as follows:

Sec. 3-29. Compliance and payment of delinquent taxes; prerequisite to issuance or renewal of license.

No license to sell alcoholic beverages shall be issued or renewed to any person, corporation, company, association, restaurant, business, club, or any other entity that does not have a valid occupational license (also referred to as a business license); or has been issued a stop work order, correction notice or similar directive by the city that has not been lifted; or has failed to submit personnel certification records demonstrating completion of the responsible beverage service training as required in the Owensboro Municipal Code; or has failed to file the requisite occupational license fee return or other submission as required in the Owensboro Municipal Code; or who is delinquent by law in the payment of any real or personal ad valorem taxes, or any transient room taxes, net profits or occupational license fees due to the city at the time of application for an original

license or at the time of issuance of a renewal license, nor shall a license be issued to, or renewed for, any person who intends to sell alcoholic beverages on any premises or property owned, leased or occupied by the licensee, upon which there are any such delinquent taxes due the city. If any taxes or fees due the city for any taxing year or period prior to the date of the application for, or renewal of, a license are unpaid and delinquent upon the property or premises for which an alcoholic beverage license is sought, the alcoholic beverage control administrator shall not approve the license until he or she first receives from the director of finance and support services or his or her designee, a written statement verifying that the applicant for the license has paid the delinquent taxes or made satisfactory arrangements with the city for the payment of same.

Section 5. That Chapter 3, Article II, Section 3-31 of the Owensboro Municipal Code be, and the same is hereby amended, to read as follows:

Sec. 3-31. Fees generally.

(a) Pursuant to KRS 243.070, the city hereby imposes the following fees for the alcoholic beverage licenses authorized in section 3-26:

(1) Malt beverage license as follows:

- a. Nonquota retail malt beverage package license, per annum: ~~[one hundred fifty-seven dollars (\$157.00) and such rate shall increase to one hundred sixty-four dollars (\$164.00) for licenses expiring in 2019, to one hundred seventy-two dollars (\$172.00) for licenses expiring in 2020, and]~~ one hundred eighty dollars (\$180.00). ~~[for licenses that expire in 2021 and thereafter.]~~ The holder of a nonquota retail malt beverage package license

may obtain a nonquota type four (4) beverage drink license for a fee of fifty dollars (\$50.00).

- b. Nonquota type four (4) retail malt beverage drink license, per annum: ~~one hundred fifty seven dollars (\$157.00) and such rate shall increase to one hundred sixty four dollars (\$164.00) for licenses expiring in 2019, to one hundred seventy two (\$172.00) dollars for licenses expiring in 2020, and~~ one hundred eighty dollars (\$180.00). ~~[for licenses that expire in 2021 and thereafter.]~~ The holder of a nonquota type four (4) malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50.00).
 - c. Malt beverage distributor's license, per annum: three hundred dollars (\$300.00).
 - d. Brewer's license, per annum: three hundred dollars (\$300.00).
 - e. Microbrewery license, per annum: four hundred dollars (\$400.00).
- (2) Distilled spirit licenses as set forth in KRS 243.030:
- a. Distiller's license, per annum: five hundred dollars (\$500.00).
 - b. Rectifier's license, per annum: one thousand one hundred dollars (\$1,100.00).
 - c. Wholesaler's distilled spirits and wine license, per annum: one thousand five hundred dollars (\$1,500.00).
 - d. Quota retail package license, per annum: ~~seven hundred thirty five dollars (\$735.00) and such rate shall increase to seven hundred seventy one~~

dollars (\$771.00) for licenses expiring in 2019, to eight hundred nine dollars (\$809.00) for licenses expiring in 2020, and] eight hundred forty-nine dollars (\$849.00) [for licenses that expire in 2021 and thereafter].

- e. Quota retail drink license, per annum: [~~seven hundred eighty-seven dollars (\$787.00)~~ and such rate shall increase to eight hundred twenty-six dollars (\$826.00) for licenses expiring in 2019, to eight hundred sixty-seven dollars (\$867.00) for licenses expiring in 2020, and] nine hundred ten dollars (\$910.00) [for licenses that expire in 2021 and thereafter].
- (3) Nonquota type one (1) retail drink license (includes distilled spirits, wine and malt beverages), per annum: [~~one thousand seven hundred eight-five dollars (\$1,785.00)~~ and such rate shall increase to one thousand eight hundred seventy-four dollars (\$1,874.00) for licenses expiring in 2019, to one thousand nine hundred sixty-seven dollars (\$1,967.00) for licenses expiring in 2020, and to] two thousand dollars (\$2,000.00) [for licenses that expire in 2021 and thereafter].
- (4) Nonquota type two (2) retail drink license (includes distilled spirits, wine and malt beverages), per annum: [~~nine hundred forty-five dollars (\$945.00)~~ and such rate shall increase to nine hundred ninety-two dollars (\$992.00) for licenses expiring in 2019, and to] one thousand dollars (\$1,000.00) [for licenses expiring in 2020 and thereafter].
- a. Nonquota type two (2) retail drink license (includes wine and malt beverages), per annum: five hundred fifty dollars (\$550.00).

- (5) Nonquota type three (3) retail drink license (includes distilled spirits, wine and malt beverages), per annum: three hundred dollars (\$300.00).
- (6) Distilled spirits and wine special temporary auction license, per event: ~~[two]~~ one hundred dollars (~~[\$2]~~100.00).
- (7) Special Sunday, retail drink license, per annum: three hundred dollars (\$300.00).
- (8) Extended hours supplemental license, per annum: one thousand five hundred dollars (\$1,500.00).
- (9) Caterer's license, per annum: five hundred fifty dollars (\$550.00).
- (10) Bottling house or bottling house storage license, per annum: one thousand dollars (\$1,000.00).
- (11) Limited golf course license, per annum: one thousand two hundred dollars (\$1,200.00).
- (1~~4~~2) Supplemental bar license, for each of the first five (5) supplemental bar licenses shall be the same as the fee, per annum, for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) licenses to the same licensee at the same premises.
- (1~~2~~3) Special temporary license, refer to section 3-32.
- (1~~3~~4) Any other special license authorized by KRS 243.070 deemed necessary and appropriate by the alcoholic beverage control administrator for the proper regulation and control of the sale of distilled spirits and wine, as provided for by law or regulation. In establishing the amount of the fee by regulation, the alcoholic beverage control administrator shall give due regard to the value of the

privilege granted and the cost of regulating same. No fee established hereunder shall become effective until it has been approved by the city manager.

- (b) The license fee for every license issued under this article shall be payable by the person making application for the license and to whom the license is issued, and no other person shall pay for any license issued under this article. In addition to all other penalties provided in this article, a violation of this subsection shall require the revocation of the license, the fee for which was paid by another and also the revocation of the license, if any, of the person so paying for the license of another.
- (c) The license fees set forth hereinabove shall be paid at the time the application therefor~~[e]~~ shall be made and the license issued as herein provided for. If any license is revoked or suspended, or canceled for any reason by the city alcoholic beverage control administrator, the licensee shall forfeit any and all claims which he might otherwise have had to any portion of the license fee paid by licensee upon the issuance of the license.
- (d) When any person applies for a new license, he shall be charged, if the license is issued, 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 ($\frac{1}{2}$) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.
- (e) Should any person licensed to conduct any of the business authorized under this section be prohibited from conducting such business for the full term of the license

because of any changes that may hereafter be made in the laws of the Commonwealth with reference to alcoholic beverages, the city shall refund to him the proportionate part of the license fee for the period during which the licensee is prevented from carrying on the business activity.

- (f) All fees from licenses issued under this chapter shall be collected by the city alcoholic beverage control administrator and turned over to the director of finance on a monthly basis for deposit in the general fund of the city.

Section 6. That Chapter 3, Article II, Section 3-34 of the Owensboro Municipal Code be, and the same is hereby amended, to read as follows:

Sec. 3-34. ~~[No 4]~~ Transfer or assignment of license without authorization prohibited.

No license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless transfer or assignment is authorized by the state administrator in the exercise of his sound discretion under KRS 243.640 and 243.650. If transfers or assignments are approved by the city alcoholic beverage control administrator, they shall not be issued until a payment of twenty-five dollars (\$25.00) is made to the director of finance.

Section 7. That Chapter 3, Article II, Section 3-35 of the Owensboro Municipal Code be, and the same is hereby amended, to read as follows:

Sec. 3-35. Mandatory responsible beverage service training; standards for certification.

- (a) All persons, corporations, companies, associations, [,] restaurants, businesses, clubs and other entities licensed or employed in the sales and service of alcoholic beverages, including the retail sale of alcoholic beverages by the package or drink, shall participate in and complete a mandatory responsible beverage service training program approved by the city manager [~~of the city~~] or the city manager's designee. Before approval is granted, the city manager or his designee shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents as well as the human characteristics of alcohol and/or drug intoxication. The city shall not require enrollment in any particular class or classes, but only require that the training be obtained from a recognized person, program or agency with a bona fide curriculum that meets the goals expressed herein.
- (b) All persons, corporations, companies, associations, restaurants, businesses, clubs and other entities licensed by the city for the sale of alcoholic beverages shall require all their employees and other persons who are engaged in the selling or serving of alcoholic beverages or which are engaged in managing the premises on which such sales are offered, to complete a responsible beverage service training class approved by the city manager [~~of the city~~] or the city manager's designee.
- (c) Subsections (a) and (b) above shall not apply to any manufacturer of alcoholic beverages as this term is defined in KRS 241.010[(30)] or any other person,

corporation, association, business or other entity licensed for the wholesale of alcoholic beverages.

(d) *Standards for Certification.* The training person or agency must reasonably instruct upon and certify the participants' competence in at least the following:

- (1) Pertinent federal, state and local laws related to the sale of alcohol;
- (2) Verification of age, forms of identification and usual methods of false or misleading age identification;
- (3) The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by persons vulnerable to its effects;
- (4) Recognition of the signs of intoxication;
- (5) Strategies for intervention and prevention of underage and intoxicated persons from consuming alcohol;
- (6) The licensee's policies and guidelines, including the employee's role in observing those policies; and
- (7) Potential liability of persons serving alcohol.

The person providing the responsible beverage service training shall be certified by the government agency, industry or organization that sponsors or develops the training curriculum.

(e) New licensees and their respective employees, managers, officers and agents who are required to complete the mandatory responsible beverage service training shall

have sixty (60) days from the date of the issuance of their initial license to complete the mandatory responsible beverage service training. New employees, managers, officers and agents shall complete the mandatory responsible beverage service training within sixty (60) days from the date of employment or other like affiliation with the licensee. Licensees, employees, managers, officers or agents who fail to complete the mandatory responsible beverage service training within the prescribed time shall not sell or serve alcoholic beverages on the licensed premises until they have successfully completed the required training. All persons completing the training requirements in this section shall be recertified in responsible beverage service training from a program approved by the city manager or his designee under the foregoing criteria not less than once every three (3) years thereafter.

- (f) *Personnel Certification Records:* Each licensee shall maintain written proof of completion of service training on its business premises for each person connected with its business for whom training is required under this section. Training records shall be retained by the licensee for a minimum of three (3) years. Each licensee and other persons engaged in the sales or service of alcoholic beverages by the package or drink shall present proof of completion of the responsible beverage service training required herein, and in a format approved by the alcoholic beverage control administrator, by December 1 of each year and, additionally, upon the request of the alcoholic beverage control administrator at any other time throughout the year.
- (g) No person, corporation, company, partnership, association, restaurant, business, club or other entity holding a license for the sale of distilled spirits, wine and/or malt beverages by the package or drink shall intentionally, willfully, knowingly, or wantonly

authorize, direct, permit, allow or cause any employee, officer or agent of the licensee who has not completed the mandatory service training required in this section, to sell or serve any alcoholic beverages to anyone on the licensed premises.

INTRODUCED AND PUBLICLY READ ON FIRST READING, this 19th day of November, 2024.

PUBLICLY READ AND APPROVED ON SECOND READING, this the 3rd day of December, 2024.

Thomas H. Watson, Mayor

ATTEST:

Beth Davis, City Clerk