

City of Midway
Ordinance 2012-001

AN ORDINANCE AMENDING CHAPTER 114, SECTIONS 114.01 THROUGH 114.99 RELATING TO REGULATIONS GOVERNING ALCOHOLIC BEVERAGE LICENSE APPLICATIONS, LICENSE ISSUANCE, RESTRICTIONS, HOURS OF SALE AND REVOCATION

Whereas, the Midway City Council desires to amend its alcoholic beverage ordinances contained in Chapter 114 relating to application for, issuance of and revocation alcoholic beverage licenses and compliance with applicable alcoholic beverage laws, hours of sale and mandatory server training;

Now, Therefore, BE IT ORDAINED by the Midway City Council that Chapter 114, and Ordinances numbers 114.01 through 114.99 is amended as follows:

CHAPTER 114: ALCOHOLIC BEVERAGES

Section

114.01 License required

114.02 Application procedure

114.03 Termination

114.04 License restrictions

114.05 Posting of license

114.06 Compliance with alcoholic beverage laws mandatory

114.07 Hours of sale

114.08 Revocation of license

114.09 Server training alcohol recognition (STAR) mandatory

114.99 Penalty

Statutory reference:

Alcoholic beverages, see KRS 241 through 244

§ 114.01 LICENSE REQUIRED.

No person, firm or corporation shall manufacture, traffic in, sell, deal in, or dispense liquor or alcoholic beverages for the purpose of evading the alcohol beverage control statutes or ordinances, without first having applied for and been issued a license as provided for by ordinance, and without complying with all statutes, ordinances and regulations applicable thereto.

Penalty, see § 114.99

§ 114.02 APPLICATION PROCEDURE.

Application for a license to sell, deal in, manufacture, traffic in, or dispense liquor and alcoholic beverage by a person, firm or corporation shall be made in writing to the City Clerk, properly subscribed and sworn to before a notary public or other officer authorized to administer an oath, wherein shall be stated the applicant's name, age, and address; the exact location, by street number or otherwise, of the premises where liquor and alcoholic beverages is to be sold; the name of the owner of the premises and, if the applicant be a firm or corporation, the name of the president or other chief officer(s) of the firm or corporation and the name and address of the person who is to manage or conduct the sale of liquor and alcoholic beverages on behalf of the applicant.

§ 114.03 TERMINATION

Each license issued under this article shall terminate on June 30 following the issuance thereof.

114.04 LICENSE RESTRICTIONS.

(A) No license shall be granted to any natural person or persons who is not a citizen of the United States and a bona fide resident of the Commonwealth of Kentucky for at least one (1) year prior to submission of an application for license; nor to any person who has habitually been a petty law offender or who has been convicted of a felony or until five (5) years has passed from the date of conviction, release from custody or incarceration, or termination of probation, whichever is later, nor to any person under 21 years of age.

(B) A partnership, limited partnership, limited liability company, or corporation shall not be licensed if:

(a) each member of the partnership or each of the directors, principal officers or managers does not qualify by meeting the above provisions as to natural persons;

(b) it has had any license issued under this ordinance or by statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages revoked for cause

or has been convicted of a violation of any such statute or ordinance until the expiration of two (2) years from the date of revocation or conviction; or

(c) it is a partnership or corporation and any member of the partnership or any director, manager or principal officer of the corporation has had any license issued under this ordinance or any statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such ordinance or statute until expiration of the later of two (2) years from the date of revocation or two (2) years from the date of conviction.

Penalty, see § 114.99

§ 114.05 POSTING OF LICENSE.

Every license and permit issued pursuant hereto shall at all time while in force be posted and displayed in a conspicuous place in the room or principal room where liquors and alcoholic beverages are kept for sale.

§ 114.06 COMPLIANCE WITH ALCOHOLIC BEVERAGE CONTROL LAWS MANDATORY.

No person, firm or corporation shall manufacture, traffic in, sell, deal in or dispense liquor or alcoholic beverages in any quantity whatever, in violation of and without complying with all of the provisions of this chapter and all applicable state statutes and regulations. Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct, gambling or any violation of the law whatever shall be allowed at any time on any licensed premises. The Alcoholic Beverage Laws of Kentucky, including the terms defined therein, and the regulations of the State Alcoholic Beverage Control Board, and as said laws and regulations may from time to time be amended, are hereby adopted as part of the alcoholic beverage control laws of this City.

§ 114.07 HOURS OF SALE.

(1) Retail Sales of Distilled Spirits and Wine by the Package.

A premises for which there has been granted a license for the sale at retail of distilled spirits, beer, malt beverages and wine by the package shall be permitted to remain open during the hours of 6:00 a.m. to 12:00 a.m. prevailing time, Monday through Saturday, and on Sundays shall not be permitted to remain open between the hours of 12:00 a.m. and 11:00 a.m. prevailing time, and also from 10:00 p.m. Sunday evening until 6:00 a.m. on the following Monday, or at any time during which the polls are open for any regular, primary, school or special election, except as otherwise provided by statute.

(2) Retail Sales of Distilled Spirits and Wine by the Drink for Consumption on Licensed Premises.

A premises for which there has been granted a license for the retail sales of distilled spirits, beer or malt beverages and wine by the drink for consumption on the licensed premises, shall not be permitted to remain open for the purposes of selling such alcoholic beverages between the hours of 12:00 a.m. prevailing time and 6:00 a.m. prevailing time, Monday through Saturday, and on Sundays shall not be permitted to remain open between the hours of 12:00 a.m. and 11:00 a.m. prevailing time, and also from 10:00 p.m. Sunday evening until 6:00 a.m. on the following Monday, or at any other time during which the polls are open for any regular, primary, school or special election except as otherwise provided by statute.

(3) A license to sell distilled spirits, wine or malt beverages by the drink may sell and dispense alcoholic beverages on New Year's Eve until 2:00 a.m. on January 1, provided that the appropriate licenses have been obtained from both the city and state ABC boards.

§ 114.068 FINE AND/OR REVOCATION OF LICENSE.

A violation hereof of these ordinances or of any applicable state statute or regulation by a duly authorized agent or employee of a licensee or permit holder shall constitute and shall be deemed a violation by the licensee or permit holder or employer, and whenever the holder of any license or permit shall violate any portion hereof, or any regulation adopted pursuant thereto, the licensee, permit holder and employer shall be subject to penalty under § 114.99, including the revocation and forfeiture of license or permit, and any other sanctions or penalties permitted by law to be imposed.

(Am. Ord. 2009-11, passed 6-15-2009)

§ 114.09 SERVER TRAINING ALCOHOL RECOGNITION (STAR) MANDATORY

For purposes of this Section "Server" shall mean any person employed or working in any capacity, whether as an employee, voluntary helper, or working proprietor, and any premises licensed to sell alcoholic beverages or where alcoholic beverages are sold and dispensed by the drink or where malt beverages are sold for consumption on the premises, and shall include any person whose job duties include the sale, dispensing or service of alcoholic beverages or management of the licensed premises.

(A) No person shall be employed by a licensed premises in the selling and serving of alcoholic beverages as a server unless the server has successfully participated in and completed the STAR Training Program through the state of Kentucky Alcoholic Beverage Control.

(B) All persons required to complete training under paragraph (A) above, shall complete the training within sixty (60) days of the date on which the person first becomes subject to the training requirement. All persons completing the training required of this section shall be re-certified in STAR training not less than once every three (3) years. Servers successfully completing the training shall receive a server certificate from the server training program.

(C) No licensed premises in which alcoholic beverages are sold by the drink or malt beverages that are sold for consumption on the premises shall allow any server who has been employed over sixty (60) days to sell, dispense or serve any alcoholic beverages or malt beverage or to manage any licensed premises unless the server is the holder of a current server certification. Each such licensed premises shall maintain a file at the licensed premises for each employee or server for whom training is required. The file shall contain the name, job description, date of employment and proof of certification of each server regulated by this Section. This information shall be made available at any reasonable time to any Alcoholic Beverage Control officer, administrator or police officer.

(D) Any person working at a special event for which a temporary alcoholic beverage license has been approved shall not be required to comply with this Section.

§ 114.99 PENALTY.

For violation of any of the provisions hereof, the licensee shall be subject to the penalty provisions and fines provided by KRS 242.990, KRS 243.990, KRS 244.990 and all other applicable statutes ; and, if convicted, it shall be the duty of the City to notify the City Council, whereupon the license theretofore issued by the city to the licensee or permit holder shall be subject to revocation and forfeiture upon notice to the licensee or permit holder.

(Am. Ord. 2009-13, passed 6-15-2009)

Introduced and given first reading at a meeting of the Midway City Council on the 17 day of January, 2012, and fully adopted after the second reading at a meeting of said City Council held on the 6 day of February, 2012 and fully adopted.

MIDWAY CITY COUNCIL



TOM BOZARTH, MAYOR

ATTEST:



PHYLLIS HUDSON, CITY CLERK

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