

ORDINANCE NO. 15 - 2015

AN ORDINANCE OF THE CITY OF BERE, KENTUCKY PROVIDING THAT THE CODE OF ORDINANCES OF THE CITY OF BERE BE AMENDED BY REVISING SECTIONS 56.001 - 56.003 AND 56.005, PROVIDING FOR THE LICENSING AND REGULATION OF CERTAIN RESTAURANTS AND DINING FACILITIES FOR THE LIMITED SALE OF ALCOHOLIC BEVERAGES.

WHEREAS, pursuant to the provisions of Ordinance No. 12-2012, and KRS 242.1242, and pursuant to a local option election on April 3, 2012, which election approved limited sales of alcoholic beverages at qualified historic sites in the East Berea Precinct, the City Council authorized limited sales of alcoholic beverages at qualified historic sites in such precinct; and

WHEREAS, pursuant to Ordinance No. 12-2012, the City Council adopted regulations licensing such sales along with any other administrative regulations necessary for the enforcement or administration of that Kentucky Alcoholic Beverage laws; and

WHEREAS, a local option election was conducted pursuant to KRS 242.1244 on September 29, 2015, which election approved limited sales of alcoholic beverages at restaurants seating a minimum of fifty (50) persons and deriving a minimum of seventy percent (70%) of gross receipts from the sale of food; and it is the responsibility of the City to amend its existing regulations to assure the sale of alcoholic beverages in certain restaurants consistent with such election and legislative intent;

NOW, THEREFORE, the City Council of the City of Berea, Kentucky, does ordain as follows:

SECTION ONE

That the Code of Ordinances of the City of Berea, Kentucky, be amended by revising §§ 56.001-56.003 and 56.005 of the Berea City Code, such Sections to read as follows:

CHAPTER 56: ALCOHOLIC BEVERAGE REGULATION

§ 56.001 PURPOSE

This Ordinance is adopted to regulate the sale of alcohol pursuant to KRS 242.1242 and KRS 242.1244 in such manner as to effectuate the legislative intent permitting limited sales of alcoholic beverages in qualified historic sites and in certain restaurants and dining facilities seating a minimum of fifty (50) persons and deriving a minimum of seventy percent (70%) of gross receipts from the sale of food.

§ 56.002 APPLICATION REVIEW

No alcoholic beverage shall be sold in the City, except as authorized under KRS 242.1242 and KRS 242.1244 and this Ordinance. Authorization under this Ordinance shall be obtained only upon the City's receipt and approval of an application in accordance with this Ordinance, The City's issuance of a license, the receipt, and approval of an application by the Kentucky Alcoholic Beverage Control Board (hereafter "ABC") in accordance with applicable law, and the issuance of a license by the ABC.

Application submittal and review shall be conducted as follows:

a) Application and Fees.

i) Persons requesting approval and a license authorizing the limited sale of alcoholic beverages in qualified historic sites pursuant to KRS 242.1242, or limited sales of alcoholic beverages at restaurants seating a minimum of fifty (50) persons and deriving a minimum of seventy percent (70%) of gross receipts from the sale of food pursuant to KRS 242.1244, and this Ordinance shall submit a completed application to be obtained from the Office of the City Administrator. The Office of the City Administrator shall determine the form of this application and the information required by it, which shall be reasonably calculated to permit a

reviewing officer to determine compliance with this Ordinance, and in the form approved and accepted by the ABC. Any applicant utilizing the ABC form shall provide any additional information not otherwise required by the ABC form by supplemental attachment to the application.

ii) Applicants for a license under this Ordinance shall pay a license fee equal to the maximum pursuant to the provisions of KRS 243.070 and KRS 243.075.

b) Administrating Officer. The City Officer responsible for administering this ordinance shall be the City Administrator, or such employee as the Mayor shall designate. All transactions required for compliance or enforcement of this Ordinance shall be directed to or issued by the City Administrator, or the employee designated by the Mayor. He or she shall review the applications along with supplemental information and issue licenses authorizing the limited sale of alcoholic beverages at qualified historic sites or limited sales of alcoholic beverages at restaurants seating a minimum of fifty (50) persons and deriving a minimum of seventy percent (70%) of gross receipts from the sale of food pursuant to this Ordinance. The City's Administrator Officer and employees with duties arising under this Ordinance shall comply with KRS 241.180 and 190.

c) Forms. All forms reasonably necessary for the implementation of the Ordinance shall be provided by the City Administrator.

§ 56.003 ISSUANCE AND RENEWAL OF LICENSES

a) Issuance. Upon satisfactory compliance with all City imposed requirements, the City's Administrating Officer shall sign an acknowledgment of that compliance. The ABC shall rely upon that acknowledgment and may review the application for statutory compliance. Upon

presentation of the ABC issued license, the City's Administrating Officer shall issue the City's license.

b) Renewal. A license issued pursuant to this Ordinance shall authorize the limited sale of alcoholic beverages at qualified historic sites or limited sales of alcoholic beverages at restaurants seating a minimum of fifty (50) persons and deriving a minimum of seventy percent (70%) of gross receipts from the sale of food for one year. The license may be renewed annually thereafter upon a showing of compliance with applicable regulations and the payment of a renewal fee of \$100.00.

§ 56.005 OPERATIONAL REGULATIONS AND DEFINITIONS

(a) Hours of Operation. No licensee operating pursuant to this article shall be open for business earlier than 6:00 a.m., or later than 12:00 midnight; nor shall any licensee for limited restaurant sales serve any alcoholic beverages on Sunday before 1:00 pm.

(b) A restaurant bar is permitted as long as it is operated in connection with a restaurant and by the same owner or management. A restaurant bar must be directly connected with such dining room and must be only a service bar for patrons of the restaurant. Stools shall be permitted at such bar, and alcoholic beverages must be sold by the drink with a meal only from such bar. No package goods shall be sold from such bar, nor shall a package store be permitted upon the premises. More than one dispensing bar shall be permitted to be operated at such location in connection with such dining room. The sale of alcoholic beverages is prohibited except during the time the restaurant is actually engaged in and open to the public for the serving of meals.

(c) Definitions. For purposes of limited restaurant sales, the following definitions shall apply:

(1) Meal: The portion of food taken at one time to satisfy appetite." Webster's New Collegiate Dictionary, page 712 (1976); Department of Revenue v. To Your Door Pizza, Inc., 570 S.W.2d 487, 484 (Ky. App. 1983).

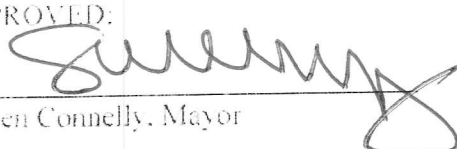
SECTION TWO

All ordinances or parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall be recorded in the Office of the Madison County Clerk and be published according to law.

FIRST READING: October 20, 2015.


SECOND READING & ENACTMENT: November 17, 2015.

APPROVED:

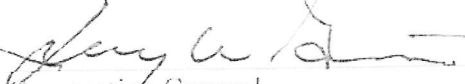

Steven Connelly, Mayor

CITY OF BEREA, KENTUCKY

ATTEST:


Cheryl Chaston
Clerk of the City Council

PREPARED BY:


Gayle A. Smith
Corporation Counsel