

**CITY OF BELLEVUE**

**ORDINANCE NO. 2004-09-01**

**AN EMERGENCY ORDINANCE ENACTING A NEW CITY OF BELLEVUE SALE OF ALCOHOLIC BEVERAGE ORDINANCE THAT MODIFIES THE EXISTING SECTION 112.40 OF THE CODE OF ORDINANCES BY ESTABLISHING NEW HOURS ALCOHOLIC BEVERAGES MAY BE SOLD ON SUNDAYS, AND MODIFYING THE CLOSING TIME FOR SELLERS OF ALCOHOLIC BEVERAGES.**

**WHEREAS**, in October, 1992, the City of Bellevue enacted Ordinance 92-9-1 that established the hours alcoholic beverages may sold on Sundays; and

**WHEREAS**, in 1998, KRS 244.290 was amended by the Kentucky legislature to arguably permit local government including a city of the fourth class such as Bellevue to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries; and

**WHEREAS**, the application and interpretation of KRS 244.290 as it relates to the validity of portions of Section 112.40 of the Code of Ordinances of the City of Bellevue relating to the sale of distilled spirits and wine on Sundays was reviewed by the state Alcohol Beverage Control (“ABC”) Board, Franklin County Circuit Court and the Kentucky Court of appeals in litigation involving Liquor Outlet, LLC; and

**WHEREAS**, the Commonwealth of Kentucky Court of Appeals affirmed the validity of KRS 244.290 regarding the ability of a city to establish the hours for the sale of distilled spirits and wine within its jurisdictional boundaries; and

**WHEREAS**, the Commonwealth of Kentucky Court of Appeals held that Section 112.40 of the Code of Ordinances of the City of Bellevue pertaining to the sale of packaged liquor and wine on Sundays was enacted in conflict with the 1992 version of KRS 244.290 and therefore is void; and

**WHEREAS**, the City of Bellevue desires to establish the hours that distilled spirits and wine may be sold including Sundays within its jurisdictional boundaries in compliance with KRS 244.290, KRS 244.480, related statutory provisions and case law; and

**WHEREAS**, this ordinance will replace Section 112.40 in its entirety; and

**WHEREAS**, it is necessary to declare an emergency to pass this ordinance so that Bellevue businesses and establishments can be in compliance with the law related to the time constraints and regulations imposed by this ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the city council of the City of Bellevue, Kentucky, that the existing Section 112.40 of the Code of Ordinances of the City of Bellevue is hereby repealed and replaced with this ordinance that will be identified as Section 112.40 in the Code of Ordinances as follows:

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, no distilled spirits, wine or malt beverages may be sold at retail in the city between the hours of 2:00 a.m. and 6:00 a.m. of any day or between 2:00 a.m. and 1:00 p.m. on Sunday or during the hours when any polls are open in the city on any election day. Notwithstanding, malt beverages referenced in KRS 243.280 and distilled spirits and wine by the package referenced in KRS 243.240 may be sold at retail in the city on Sunday beginning at 12:00 p.m. (noon).

(B) During the restricted hours set forth in division (A), no person who has a valid city license for the sale of distilled spirits or wine or malt beverages at retail shall cause, permit or engage in any of the actions, business or transactions authorized and permitted thereby unless otherwise provided herein. During such times, all persons who have such city licenses shall cause the licensed premises to be closed and vacated by all persons except the applicant and those persons identified on the application for such city licenses or any supplements thereto as officers, agents or employees of the person to whom such license was issued. All other persons shall vacate the licensed premises and remove themselves therefrom during such times.

(C) If a separate department of such licensed premises is maintained in a manner previously approved in writing by the ABC Administrator as being capable of being locked, closed off and separated from the remainder of the licensed premises and all distilled spirits, wine, and malt beverages and all fixtures and apparatus connected with the acts of business and transactions authorized by the state licenses and city licenses for the retail sale of distilled spirits, wine and malt beverages from such premises are located within such approved department, and such approved department is continuously the licensed premises during such times, the remainder of the licensed premises may remain open and any lawful activity may be conducted thereon during such times.

Penalty, see Section 112.99

For the reasons set forth above, an emergency is hereby declared to exist and the provisions of this ordinance shall become effective immediately upon its adoption by a vote of two-thirds or more of the city council.

Adopted this 8<sup>th</sup> day of September, 2004.

Attest:

\_\_\_\_\_  
John D. Meyer, Mayor

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Mary H. Scott, City Clerk

1<sup>st</sup> Reading: \_\_\_\_\_

Publication: \_\_\_\_\_