



Matthew D. Dusing, PLLC

800 Monmouth St.
Newport, KY 41071

Phone: (859)-554-4410
Email: matthew.dusing@dusinglaw.com

VIA ELECTRONIC MAIL:

June 1, 2022

Commonwealth of Kentucky
Department of Alcoholic Beverage Control
500 Metro Street 2NE33
Frankfort, KY 40601
abc.advisory@ky.gov

**RE: REQUEST FOR ADVISORY OPINION
THE BARK & PATIO, LLC**

To Whom it May Concern:

I represent The Bark Park & Patio, LLC (“Bark Park”). Bark Park is a Kentucky Limited Liability company which owns and operates a bar and neighborhood dog park/entertainment facility located at 7544 Burlington Pike, Florence KY 41042. Bark Park currently has the following Alcoholic Beverage Permits:

NQ4 Retail Malt Beverage Drink License (1) – 008-NQ4-189916 – EXP 11/30/2022
Quota Retail Drink License (1) – 008-LD-189917 -EXP 11/30/2022

Bark Park respectfully requests an Advisory Opinion ruling that Bark Park is exempted from the general restrictions enumerated in KRS 244.085(5) prohibiting persons under the age of 21 on its premises. Pursuant to ABC Advisory Opinion 2020-001, Bark Park is an “entertainment facility” and is therefore exempt from the general restrictions listed in KRS 244.085(5).

BARK PARK & PATIO

Bark Park is a private dog park serving all residents of the Northern Kentucky and Cincinnati community. Bark Park is not limited to exclusively selling alcohol or operating solely as a bar. The primary purpose of Bark Park is to operate as a local dog park. Ownership of a dog is not limited to persons 21 years of age or older. The age restriction placed on Bark Park limits its membership. Bark Park also plans to offer food vendors through food trucks who lease space from Bark Park or permanent food vendors who will be located in designated spaces in its lot. Bark Park will also be hosting dog adoption events and dog training events. By granting Bark Park an exception from the general restrictions of KRS 244.085(5), families with children will not be excluded from enjoying the dog park, fun, vendors, events, and food offerings that Bark Park intends to provide to the community.

Furthermore, Bark Park will be able to control the purchase of alcoholic beverages to those 21 years of age or older. Only those 21 years of age or older, who have provided identification to Bark Park staff, will be given a specific Bark Park card that is controlled and can be turned off by Bark Park to use Bark Park’s self serve tap. The

¹ Bark Park obtained the same Alcoholic Beverage Permits from the City of Florence and Bark Park obtained all necessary licenses and permits required to operate in the City of Florence and Boone County.



taps do not operate without prior authorization and without the card controlled by Bark Park. Bark Park has full control over its alcohol and is in a position to ensure no one under 21 purchases alcohol or has access to alcohol directly from Bark Park's taps.

ABC ADVISORY OPINION 2020-001 AND APPLICABLE STATUTES AND REGULATIONS

A similar question was presented to the ABC on August 11, 2020 and the ABC submitted an Opinion on September 4, 2020. In ABC Advisory Opinion 2020-001, the Department was required to analyze and define what an "entertainment facility" is under KRS 244.05(5)(a). On September 4, 2021, the Department defined "entertainment facility" as "an establishment licensed to sell or serve alcoholic beverages at retail, characterized by providing amusements or diversions -especially performances- that are appropriate for persons under the age of 21 to attend or engage in, and whose operations allow it to adequately monitor and prevent the sale of alcoholic beverages to minors."

ABC Advisory Opinion 2020-001 resulted from the request of Yard Bar, LLC, a similarly situated business to Bark Park located in Covington. Although these businesses are similar, the biggest difference between the two businesses is that Yard Bar, LLC is offering a "neighborhood backyard" or "park space" for the community to use. Whereas, Bark Park is offering a specific service that is beneficial to all ages, a privately controlled dog park. This distinction is crucial. The Department stated in its Opinion that "the definition of "entertainment facility" should be limited to business establishments that provide services or goods which would warrant the presence of minors on its premises." As a dog park, this is a service which would warrant the presence of minors and those under the age of 21 years of age on its premises. The primary purpose for individuals to visit Bark Park is the privately controlled dog park and its amenities related to dog parks.

The Department determined that the operations of Yard Bar, LLC met the criteria to be an "entertainment facility." Given the similarities to Yard Bar, LLC and the given the distinction in purpose (Bark Park is first and foremost a dog park) Bark Park should be granted the exemption to allow persons under the age of 21 on its premises. Bark Park is open to the air and resembles a park or fair. Bark Park offers various amusements and diversions appropriate for persons not yet 21. While Bark Park does serve alcoholic beverages, the alcoholic beverages are served from a single bar and only patrons who have checked in with Bark Park staff and have been given a special card indicating they are at least 21 years of age can purchase alcohol.

CONCLUSION

There are little to no places in the surrounding areas for individuals to take their dogs. Furthermore, Bark Park is the only specific dog park in the surrounding area with staff patrolling the park and ensuring the safety of guests and dogs. Bark Park is a business where families will be able to bring their dog with the knowledge and **safety** that all dogs have been vetted by Bark Park. It is important for all members of the family to be allowed on Bark Park's premises. Many families with dogs would like to bring their entire family including the children. Bark Park's business is set up for members to simply pay for access to the park without having to purchase alcohol or partake in alcohol consumption.



Respectfully Submitted,

A handwritten signature in blue ink that reads "Matthew D. Dusing". The signature is written over a horizontal line.

Matthew D. Dusing (#96340)

Dusing Law, PLLC

800 Monmouth Street

Newport KY 41071

859.554.4410

Matthew.Dusing@DusingLaw.com

Attachments: 1) ABC License
2) City of Florence ABC License
3) Photos of Premises

cc: Joshua Hunt
James Seibert



ALCOHOLIC BEVERAGE CONTROL

KNOW YE, THAT

PREMISES ADDRESS & SITE ID # 34201

The Bark Park & Patio, LLC

DBA: Bark Park & Patio

7544 Burlington Pike

Florence , KY 41042

having complied with the necessary provisions of Kentucky law and having produced the satisfactory evidence to the Administrator(s) of the Department of Alcoholic Beverage Control, is hereby granted the following:

NQ4 Retail Malt Beverage Drink License (1) , 008-NQ4-189916 , EXP 11/30/2022

Quota Retail Drink License (1) , 008-LD-189917 , EXP 11/30/2022

By law this license does not constitute a property or vested right. These licenses are subject to the obligations and limitations imposed thereon, by law, for a period beginning on the date of issue herein, and to continue in force as long as the licensee is entitled thereto, or until suspension, or revocation, by the Alcoholic Beverage Control Board.



ALCOHOLIC BEVERAGE CONTROL

PUBLIC PROTECTION CABINET
500 Maro Street 2NE33
Frankfort, KY 40501
502-584-4850 (e)
502-584-7479 (f)

DISTILLED SPIRITS ADMINISTRATOR

MALT BEVERAGE ADMINISTRATOR



LIQUOR LICENSE

FISCAL YEAR 2021-2022

THE BARK PARK & PATTO, LLC

Premises Address: 7544 BURLINGTON PIKE FLORENCE, KY 41042

Title of License	License Number	Effective Date	Expiration Date
NQ-2 RETAIL DRINK	321608	11-30-2021	11-30-2022

Diane E. Whalen
Mayor - City of Florence

THE BARK PARK & PATTO, LLC
DBA THE BARK PARK & PATTO
7544 BURLINGTON PIKE
FLORENCE, KY 41042



ED 330 LF 6" T
EATED WOOD
CY FENCING

DSCAPE PLAN
NTING
AND LEGEND

ACY FENCE

COOLER WITH
ALK PATH

EXIST GARAGE
SPACE,
RENOVATION TO
ASSEMBLY

EXIST OFFICE
BLDG. NO
CHANGE IN USE

MULCH PATIO AREA

DECORATIVE ALUM
FENCE DOG VESTIBULE

4" T BLACK COATED
CHAIN LINK FENCE

DECORATIVE ALUM FENCE
AROUND PATIO AREAS

PATIO ON EXIST CONC
SLAB

NEW STOOP AT MAIN ENTRY

EXISTING PARKING AREA. SEE CIVIL PLANS FOR
NEW STRIPING LAYOUT

DOG PARK



