

ORDINANCE 2013-16

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY AMENDING CHAPTER 111 OF THE CITY'S CODE OF ORDINANCES RELATING TO ALCOHOLIC BEVERAGES AND DIRECTING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

WHEREAS, the Kentucky General Assembly passed Senate Bill 13, which involved comprehensive reform of KRS Chapters 241 through 244 relating to Alcoholic Beverages, during its 2013 Regular Session; and

WHEREAS, the City of Fort Mitchell desires to bring Chapter 111 of the City's Code of Ordinances current and make it consistent with such comprehensive reform.

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

SECTION I

§ 111.01 is hereby amended to read in full as follows:

§ 111.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) As used herein the words and phrases defined in KRS 241.010 and 243.0105 have the meanings indicated therein.

(B) The following words and phrases have the meanings indicated:

BOARD. The State Alcoholic Beverage Control Board established pursuant to KRS 241.030.

CITY ABC ADMINISTRATOR. The person appointed to the office of Alcoholic Beverage Control Administrator created and established by the city.

CITY LICENSE. A license established and authorized pursuant to the terms hereof.

CITY LICENSEE. A person who has been issued a city license pursuant to the terms hereof.

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PERSON. Any natural person, corporation, partnership, joint venture or unincorporated association of persons or any combination thereof, and the shareholders, officers, agents, servants and employees thereof.

PREMISES. The premises described in the city license issued pursuant to the terms hereof and the application therefor.

STATE LICENSE. A license authorized by KRS 243.030 to 243.680.

TRAFFIC IN ALCOHOLIC BEVERAGES. Any action, business or transaction in regard to the production, storage, transportation, distribution, sale, delivery and transfer of alcoholic beverages.

SECTION II

§ 111.20 is hereby rescinded and repealed in its entirety.

SECTION III

There is hereby created a new § 111.20 to read in full as follows:

§ 111.20 LICENSES; FEE SCHEDULE.

(A) Pursuant to the authority of KRS 243.070, there is hereby established a city license for each of the licenses authorized by that KRS section. The actions, business, and transactions authorized and permitted by the possession of a city license shall be the same as those permitted by the state license to which said city license corresponds. The fees and expiration dates for city licenses shall be as indicated in the following schedule:

<u>License Description</u>	<u>Annual Expiration Date</u>	<u>Fee Per Annum (unless otherwise indicated)</u>
Distiller's license	June 30	\$200
Rectifier's license	June 30	\$200
Wholesaler's distilled spirits and wine license	June 30	\$200
Quota retail package license	June 30	\$250
Quota retail drink license	June 30	\$300
Special	N/A	\$166.66 (per

<u>temporary license</u>		<u>event)</u>
<u>Nonquota type 1 retail drink license (includes distilled spirits, wine, and malt beverages)</u>	<u>June 30</u>	<u>\$2,000.00</u>
<u>Nonquota type 2 retail drink license (includes distilled spirits, wine, and malt beverages)</u>	<u>June 30</u>	<u>\$1,000.00</u>
<u>Nonquota type 3 retail drink license (includes distilled spirits, wine, and malt beverages)</u>	<u>June 30</u>	<u>\$300.00</u>
<u>Distilled spirits and wine special temporary auction license</u>	<u>N/A</u>	<u>\$200.00 (per event)</u>
<u>Special Sunday retail drink license</u>	<u>June 30</u>	<u>\$100.00</u>
<u>Extended hours supplemental license</u>	<u>June 30</u>	<u>\$2,000.00</u>
<u>Caterer's license</u>	<u>June 30</u>	<u>\$300.00</u>
<u>Bottling house or bottling house storage license</u>	<u>June 30</u>	<u>\$1,000.00</u>
<u>Brewer's license</u>	<u>June 30</u>	<u>\$200.00</u>
<u>Microbrewery license</u>	<u>June 30</u>	<u>\$200.00</u>
<u>Malt beverage distributor's license</u>	<u>June 30</u>	<u>\$100.00</u>
<u>Nonquota retail malt beverage package license</u>	<u>June 30</u>	<u>\$50.00</u>
<u>Nonquota type 4 retail malt beverage drink</u>	<u>June 30</u>	<u>\$50.00</u>

<u>license</u>		
<u>Malt beverage brew-on-premises license</u>	<u>June 30</u>	<u>\$100.00</u>
<u>Limited restaurant license (includes distilled spirits, wine, and malt beverages)</u>	<u>June 30</u>	<u>\$1,200.00</u>
<u>Limited golf course license</u>	<u>June 30</u>	<u>\$1,200.00</u>

(B) No person shall cause, permit or engage in any of the actions, business or transactions authorized by city and state licenses within the city without both a valid city license and a valid state license therefor.

SECTION IV

§ 111.21 is hereby amended to read in full as follows:

§ 111.21 FORM; CONTENT OF CITY LICENSE.

(A) The city licenses authorized and established ~~hereby~~ by this chapter shall each be evidenced by a document, the form and content of which shall be prescribed by regulation of the City ABC Administrator, provided, however, that each document evidencing a city license shall be of the same color and designation as that of the corresponding state license and shall comply with the provisions of KRS 243.440.

~~(B) However, the documents must be of the same color and designation as those of the state licenses to which the city licenses correspond and must:~~

- ~~— (1) Comply with all of the provisions for state licenses required by KRS 243.440; and~~
- ~~— (2) Contain a declaration that the license authorizes the search of the licensed premises by any peace officer at any time for any purpose; the removal therefrom of any evidence of any crime or other violation of any law; and the use thereof in any trial or hearing in regard thereto.~~

SECTION V

§ 111.22 is hereby amended to read in full as follows:

§ 111.22 APPLICATION; ISSUANCE.

Subject to the limitations and restrictions described herein, city licenses shall be originally issued by the City ABC Administrator and renewed by ~~him~~the City ABC Administrator upon the expiration thereof upon receipt of the following documents and fees more than 30 days prior to the effective date of an original license and more than 15 days prior to the expiration date of any license to be renewed:

(A) A written application therefor with the truth of the information, statements and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of an application shall be prescribed by regulation of the City ABC Administrator; however, provision for the following information, statements and representations shall and must be included therein:

(1) All information required by KRS 243.390 to be contained in the application for state licenses.

~~(2) — A consent by the applicant to the search of the licensed premises by any peace officer at any time for any purpose, the removal therefrom of any evidence of any crime or other violation of any law and the use thereof in any trial or hearing in regard thereto.~~

~~(32) The names, addresses, photographs and fingerprints of the applicant and all shareholders, officers, agents, servants and employees thereof.~~

(B) The approval of the applicant, the application and the premises described therein by the City ABC Administrator.

(C) Documentary evidence of a valid state license which corresponds to the city license for which the application is being made.

(D) The applicable fee, paid in cash or by certified or cashier's check, for the city license which is the subject of the application.

SECTION VI

§ 111.26 is hereby amended to read in full as follows:

§ 111.26 GROCERY, GASOLINE SELLERS AND THE LIKE PROHIBITED FROM OBTAINING LICENSE.

(A) As prohibited in KRS 243.280, no city license shall be issued to sell malt beverages at retail within or upon any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted unless there is continuously maintained an inventory on the premises for sale at retail of not less than \$5,000 of food, groceries, and related products valued at cost.

(B) ~~As prohibited in KRS 243.230, No~~ city license shall be issued to sell distilled spirits or wine at retail by the drink or package from any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline or lubricating oil.

SECTION VII

§ 111.43 is hereby amended to read in full as follows:

§ 111.43 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

As required by KRS 244.083, a city licensee who has a valid city retail distilled spirits, wine or malt beverage license shall cause to be displayed in a conspicuous and prominent place on the licensed premises each of the following documents so that they may be seen and observed by all persons entering the licensed premises:

(A) A sign or placard at least eight inches by 11 inches in size with the following message printed or displayed thereon in 30 point or larger type:

“Persons under the age of twenty-one (21) years are subject to a fine up to ~~\$500~~ one hundred dollars (\$100) if they:

(1) Enter licensed premises to buy, or have served ~~or delivered~~ to them, any alcoholic beverages;~~;~~~~or~~

(2) Possess, purchase or attempt to purchase, or get another to purchase any alcoholic beverages;~~;~~~~or~~

(3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.”

(B) All valid city licenses issued therefor and the state licenses to which they correspond. The failure to so display the licenses shall be prima facie evidence that no valid licenses have been issued or exist and all actions, business and transactions authorized thereby conducted on the premises are illegal and in violation of the provisions hereof and the state statutes and regulations of the State Alcoholic Beverage Control Board in regard thereto.

SECTION VIII

§ 111.47 is hereby amended to read in full as follows:

§ 111.47 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

(A) A city licensee who has a valid city ~~wholesale or retail distilled spirits, wine or malt beverage~~ license ~~must~~ shall be permitted to conduct the actions, business and transactions authorized thereby only upon the licensed premises.

(B) When no actions, business or transactions are conducted thereon for a period of 90 consecutive calendar days, the city license therefor shall become null and void and revoked by the City ABC Administrator unless:

(1) The city licensee is unable to continue in business at the premises for which a license is issued due to an act of God; casualty; the acquisition of the premises by any federal, state, city, or other governmental agency under power of eminent domain; acquisition of any private corporation through its power of eminent domain granted to it, whether the acquisition is voluntary or involuntary; or loss of lease through failure of the landlord to renew the existing lease; and

(2) Prior to the discontinuance of business at the licensed premises or immediately thereupon if it is due to an act of God, the city licensee delivers to the City ABC Administrator a written statement signed by the city licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the licensed premises for any of the causes or reasons described herein.

~~§ 111.60 RIGHT OF ENTRY; SEARCH AND SEIZURE.~~

~~—A city licensee shall permit the entry and search of the licensed premises by any peace officer at any time for any purpose, and the seizure and removal therefrom of any evidence of any crime or other violation of law and the use thereof in any trial or hearing in regard thereto.~~

SECTION IX

§ 111.61 is hereby amended to read in full as follows:

§ 111.61 SUSPENSION, REVOCATION OF LICENSE.

(A) Pursuant to the procedure set forth in KRS 243.480 through 243.590, city licenses may be either revoked or suspended by the City ABC Administrator upon the occurrence of:

(1) Any violation of the provisions of this chapter or any other alcoholic beverage control ordinance of the city;

(2) Any violation of any provision of state law in regard to alcoholic beverages or the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto; or

(3) Any other cause, reason or circumstance for which a state license may be revoked or suspended by the Board.

(B) However, city licenses must be revoked by the City ABC Administrator upon the occurrence of any cause or circumstance which requires revocation of state licenses pursuant to KRS 243.500 or the revocation of a state license to which a city license corresponds. Further,

with the approval of the City ABC Administrator, a licensee may, as an alternative and in lieu of part or all of the days of any suspension period, pay the following sums to the city as set forth in KRS 243.480.:

Licensees	Fee Per Day
Distillers	\$1,000
Rectifiers	\$1,000
Vintners	\$1,000
Brewers	\$1,000
Blenders	\$1,000
Wholesale liquor licensees	\$400
Wholesale beer licensees	\$400
Retail drink liquor licensees	\$50
Retail package liquor licensees	\$50
Retail beer licensees	\$50
All remaining licensees	\$50

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City ABC Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance, or occurrence and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard thereon. The hearing thereon shall be conducted by the City ABC Administrator in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City ABC Administrator. The City ABC Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusion of the hearing, the City ABC Administrator shall issue a written decision in regard thereto and mail a certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail.

SECTION X


All ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION XI

This Ordinance is hereby ordered to be published by Summary.

CITY OF FORT MITCHELL, KENTUCKY

By: _____


CHRISTOPHER WIEST, Mayor

ATTEST:



MARTHA ALLEN, City Clerk

Date of First Reading: July 1, 2013

Date of Second Reading and Enactment: July 23, 2013

Date of Publication: _____

TITLE XI: BUSINESS REGULATIONS

CHAPTER 111: ALCOHOLIC BEVERAGES

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CHAPTER 111: ALCOHOLIC BEV S

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GENERAL PROVISIONS**§ 111.01 DEFINITIONS.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) As used herein the words and phrases defined in KRS 241.01 and 243.010 have the meanings indicated therein.

(B) The following words and phrases have the meanings indicated:

BOARD. The State Alcoholic Beverage Control Board established pursuant to KRS 241.030.

CITY ABC ADMINISTRATOR. The person appointed to the office of Alcoholic Beverage Control Administrator created and established by the city.

CITY LICENSE. A license established and authorized pursuant to the terms hereof.

CITY LICENSEE. A person who has been issued a city license pursuant to the terms hereof.

PERSON. Any natural person, corporation, partnership, joint venture or unincorporated association of persons or any combination thereof, and the shareholders, officers, agents, servants and employees thereof.

PREMISES. The premises described in the city license issued pursuant to the terms hereof and the application therefor.

STATE LICENSE. A license authorized by KRS 243.030 to 243.680.

TRAFFIC IN ALCOHOLIC BEVERAGES. Any action, business or transaction in regard to the production, storage, transportation, distribution, sale, delivery and transfer of alcoholic beverages.

('88 Code, § 111.01)

§ 111.02 POSSESSION BY MINORS ON PRIVATE PROPERTY.

No person being the owner, occupant or otherwise having the care, custody or control of any property located in the city shall knowingly allow any person under the age of 21 years to remain on the property while in the possession of any alcoholic beverage or while consuming any alcoholic beverage.

(88 Code, § 111.02) (Ord. 1987-2, passed 2-18-87) Penalty, see § 111.99

LICENSES

§ 111.20 CLASSIFICATION OF LICENSES; FEE SCHEDULE.

(A) For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in the following schedule. The actions, business, and transactions authorized and permitted thereby and the expiration dates thereof shall be and are the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in the following schedule. The fees for city licenses shall be the maximum allowed by law as indicated in the following schedule.

(B) No person shall cause, permit or engage in any of the actions, business or transactions authorized by city and state licenses within the city without both a valid city license and a valid state license therefor:

<i>License Description</i>	<i>Statutory Authorization</i>	<i>Statutory Description of Authorized Business and Transactions</i>	<i>Annual Expiration Date</i>	<i>Fee per Annum</i>
Distilled Spirits and Wine Licenses				
Distillers	243.030 (1) and 243.070	243.120 and 243.130	June 30	\$200
Rectifiers	243.030 (2)	243.120 and 243.130	June 30	\$200
Blenders	243.030 (3)	243.140	June 30	\$200
Wholesaler	243.030 (6)	243.160 and 243.170	June 30	\$200
Retail package	243.030 (7)	243.240	June 30	\$250
Retail drink	243.030 (8)	243.250	June 30	\$300
Special temporary	243.030 (16)	243.260	NA	1/6 of retail package license fee per month
Special private club	243.030 (17)	243.270	June 30	Alcohol \$75

				Beer \$25
Special Sunday drink	243.030 (18)	244.290	June 30	\$100
Nonresident special agent	243.030 (19)	243.340	June 30	\$40
Malt Beverage Licenses				
Brewers	243.040 (1) and 243.070	243.150	June 30	\$200
Microbrewery	243.040 (2)	243.157	June 30	\$200
Distributors	243.040 (3)	243.180	June 30	\$100
Retailers (new applicants or renewals)	243.040 (4) and 243.070	243.280	June 30	\$50
Special temporary	243.040 (7)	243.290	NA	\$25/month

(Ord. 1985-12, passed 9-9-85) Penalty, see § 111.99

§ 111.21 FORM; CONTENT OF CITY LICENSE.

(A) The city licenses authorized and established hereby shall each be evidenced by a document, the form and content of which shall be prescribed by regulation of the City ABC Administrator.

(B) However, the documents must be of the same color and designation as those of the state licenses to which the city licenses correspond and must:

- (1) Comply with all of the provisions for state licenses required by KRS 243.440; and
- (2) Contain a declaration that the license authorizes the search of the licensed premises by any peace officer at any time for any purpose; the removal therefrom of any evidence of any crime or other violation of any law; and the use thereof in any trial or hearing in regard thereto.

('88 Code, § 111.21)

§ 111.22 APPLICATION; ISSUANCE.

Subject to the limitations and restrictions described herein, city licenses shall be originally issued by the City ABC Administrator and renewed by him upon the expiration thereof upon receipt of the following documents and fees more than 30 days prior to the effective date of an original license and more than 15 days prior to the expiration date of any license to be renewed:

(A) A written application therefor with the truth of the information, statements and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of an

application shall be prescribed by regulation of the City ABC Administrator; however, provision for the following information, statements and representations shall and must be included therein:

(1) All information required by KRS 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the search of the licensed premises by any peace officer at any time for any purpose, the removal therefrom of any evidence of any crime or other violation of any law and the use thereof in any trial or hearing in regard thereto.

(3) The names, addresses, photographs and fingerprints of the applicant and all shareholders, officers, agents, servants and employees thereof.

(B) The approval of the applicant, the application and the premises described therein by the City ABC Administrator.

(C) Documentary evidence of a valid state license which corresponds to the city license for which the application is being made.

(D) The applicable fee, paid in cash or by certified or cashier's check, for the city license which is the subject of the application.

('88 Code, § 111.22) (Ord. 2001-05, passed 8-29-01)

§ 111.23 APPROVAL OF APPLICATION.

Within 30 days of the date of the application for an original city license and 15 days of the date of an application for renewal of a city license, the City ABC Administrator shall, by mail or personal delivery thereof, notify the applicant, in writing, of either the approval thereof or the disapproval thereof and a hearing in regard thereto.

('88 Code, § 111.23)

§ 111.24 DENIAL OF APPLICATION.

As is similarly set forth in KRS 243.450, the City ABC Administrator shall not approve any application for a city license if:

(A) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(B) The applicant and/or any shareholder, officer, agent, servant or employee thereof has caused, permitted or engaged in any act for which the revocation of a state or city license is authorized;

(C) The applicant and/or any shareholder, officer, agent, servant or employee thereof had a state license or city license which was revoked within two years of the date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during the time;

(D) Any statement or representation in the application is false; or

(E) In the exercise of sound discretion, the City ABC Administrator determines any cause or reason for refusing to approve an application reasonably related to the purpose and objective of this chapter and the state laws and regulations of the State Alcoholic Beverage Control Board. Among those factors that the City ABC Administrator shall consider in the exercise of his discretion are: public sentiment in the area, number of licensed outlets in the area, potential for future growth, type of area involved, type of transportation available and financial potential of the area.

('88 Code, § 111.24)

§ 111.25 TRANSFER OF LICENSE.

A city licensee shall not assign or transfer any city license to any other person or premises unless that person and/or premises complies with all of the provisions of this chapter, the transfer of the license is approved by the City ABC Administrator and the transfer of the state license to which the city license corresponds is approved by the state. A transfer fee of \$10 shall be paid to the city for the transfer of the city license.

('88 Code, § 111.25) Penalty, see § 111.99

§ 111.26 GROCERY, GASOLINE SELLERS AND THE LIKE PROHIBITED FROM OBTAINING LICENSE.

(A) As prohibited in KRS 243.280, no city license shall be issued to sell malt beverages at retail within or upon any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted unless there is continuously maintained an inventory on the premises for sale at retail of not less than \$5,000 of food, groceries, and related products valued at cost.

(B) No city license shall be issued to sell distilled spirits or wine at retail by the drink or package from any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline or lubricating oil.

('88 Code, § 111.26)

SALE OF ALCOHOLIC BEVERAGES

§ 111.40 HOURS.

(A) Pursuant to the authority of KRS244.290 and KRS244.480, no distilled spirits, wine, or malt beverages may be sold at retail, whether by the drink or by package, in the city between the hours of 2:30 a.m. and 6:00 a.m. of any day. On Sundays, no distilled spirits, wine, or malt beverages may be sold at retail by the drink in the city between the hours of 2:30 a.m. and 1:00 p.m., and no distilled spirits, wine, or malt beverages may be sold at retail by the package in the city on Sunday between the hours of 2:30 a.m. and 11:00 a.m. In addition, no distilled spirits, wine, or malt beverages may be sold at retail in the city during the hours when any polls are open in the city on any election day.

(B) During the restricted hours set forth in division (A) of this section, 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 by this section. 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 city license was issued. All other persons shall vacate the licensed premises and remove themselves therefrom during such times; however, any person upon the premises who purchased any alcoholic beverages by the drink from the licensee within 30 minutes prior to any such times may remain upon the premises for a period not to exceed 30 minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of the 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 the approved department, and such approved department is continuously kept locked, closed off, and separated from the remainder of 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.

(D) All retail sellers that hold a valid license for the sale of distilled spirits, wine, and malt beverages within the jurisdictional boundaries of the city are hereby authorized to sell distilled spirits, wine, and malt beverages, whether by the drink or by package, according to the terms of their individual license, during the hours of 6:00 a.m. to 2:30 a.m. the following day, on every day except for Sundays, and except for any hours when any polls are open in the city on any election day. All retail sellers that hold a valid license for the sale of distilled spirits, wine, and malt beverages within the jurisdictional boundaries of the city are hereby authorized to sell distilled spirits, wine, and malt beverages, by the drink, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. All retail sellers that hold a valid license for the sale of distilled spirits, wine, and malt beverages within the jurisdictional boundaries of the city are hereby authorized to sell distilled spirits, wine, and malt beverages, by package, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 11:00 a.m. on Sundays and 2:30 a.m. on Mondays.

('88 Code, §111.40) (Am. Ord. 2004-17, passed 10-18-04) Penalty, see § 111.99

§ 111.41 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

(A) At all times during which any person has a valid city license issued pursuant to the provisions hereof, that person shall fully comply with all of the rules, regulations, requirements and prohibitions set forth in this chapter.

(B) A city licensee shall comply fully with all of the provisions hereof and all of the rules and regulations of the City ABC Administrator in regard thereto; all provisions of the state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard to the licensed premises and the actions, business and transactions conducted thereon subsequent to the issuance of a state license therefor and prior to the expiration, revocation or suspension thereof which are hereby incorporated herein and made applicable to all city licenses corresponding thereto, the premises described therein, and the actions, business and transactions conducted thereon; and the city licensee shall comply fully

therewith.

(88 Code, § 111.41) Penalty, see § 111.99

§ 111.42 MAINTENANCE OF STATE LICENSE.

A city licensee shall maintain the state license to which the city license corresponds and fully comply with all state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto.

(88 Code, § 111.42) Penalty, see § 111.99

§ 111.43 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

As required by KRS 244.083, a city licensee who has a valid city retail distilled spirits, wine or malt beverage license shall cause to be displayed in a conspicuous and prominent place on the licensed premises each of the following documents so that they may be seen and observed by all persons entering the licensed premises:

(A) A sign or placard at least eight inches by 11 inches in size with the following message printed or displayed thereon in 30 point or larger type:

“Persons under the age of twenty-one (21) years are subject to a fine up to \$500 if they:

- (1) Enter licensed premises to buy or have served or delivered to them any alcoholic beverages;
or
- (2) Possess, purchase or attempt to purchase any alcoholic beverages; or
- (3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.”

(B) All valid city licenses issued therefor and the state licenses to which they correspond. The failure to so display the licenses shall be prima facie evidence that no valid licenses have been issued or exist and all actions, business and transactions authorized thereby conducted on the premises are illegal and in violation of the provisions hereof and the state statutes and regulations of the State Alcoholic Beverage Control Board in regard thereto.

(88 Code, § 111.43) Penalty, see § 111.99

Statutory reference:

For provisions concerning the display of state license required, see KRS 243.620, 244.270 and 244.360

§ 111.44 CRIMINAL CONDUCT ON PREMISES PROHIBITED.

A city licensee shall not cause, permit or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime or other violation of any law, rule or regulation of any governmental agency having jurisdiction thereof or any officer or

agency thereof.

('88 Code, § 111.44) Penalty, see § 111.99

§ 111.45 CONDUCTING BUSINESS WITH MINOR.

As prohibited by KRS 244.080 and 244.085, no person shall cause, permit, encourage, or engage in any of the following actions in the city:

(A) The possession or consumption of any alcoholic beverages by any person under 21 years of age in or upon any licensed premises or public places; and

(B) The misrepresentation of the name, address, age or other identification of any person under 21 years of age for the purpose of obtaining alcoholic beverages.

('88 Code, § 111.45) Penalty, see § 111.99

§ 111.46 ILLEGAL SEXUAL CONDUCT; EXPOSURE OF HUMAN BODY.

No person shall cause, permit, encourage or engage in any of the following activities or display still or motion pictures thereof on licensed premises:

(A) Sexual conduct, as defined in KRS 531.010 (4).

(B) Any acts, simulated acts, exhibitions, representations, depictions or descriptions of:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;

(3) Intrusion, however slight, of any object, any part of an animals's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal;

(4) Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function; or

(5) Flagellation, mutilation or torture for purpose of sexual arousal, gratification, or abuse.

(C) The appearance, display, depiction of:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point above the top of the areola; or

(2) Human male genitals in a discernible turgid state even in completely and opaquely covered.

('88 Code, § 111.46) (Ord. 2000-3, passed 4-17-00) Penalty, see § 111.99

§ 111.47 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

(A) A city licensee who has a valid city wholesale or retail distilled spirits, wine or malt beverage license must conduct the actions, business and transactions authorized thereby upon the licensed premises.

(B) When no actions, business or transactions are conducted thereon for a period of 90 consecutive calendar days, the city license therefor shall become null and void and revoked by the City ABC Administrator unless:

(1) The city licensee is unable to continue in business at the premises for which a license is issued due to an act of God; casualty; the acquisition of the premises by any federal, state, city, or other governmental agency under power of eminent domain; acquisition of any private corporation through its power of eminent domain granted to it, whether the acquisition is voluntary or involuntary; or loss of lease through failure of the landlord to renew the existing lease; and

(2) Prior to the discontinuance of business at the licensed premises or immediately thereupon if it is due to an act of God, the city licensee delivers to the City ABC Administrator a written statement signed by the city licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the licensed premises for any of the causes or reasons described herein.

('88 Code, § 111.47) (Am. Ord. 2004-17, passed 10-18-04)

ADMINISTRATION AND ENFORCEMENT

§ 111.60 RIGHT OF ENTRY; SEARCH AND SEIZURE.

A city licensee shall permit the entry and search of the licensed premises by any peace officer at any time for any purpose, and the seizure and removal therefrom of any evidence of any crime or other violation of law and the use thereof in any trial or hearing in regard thereto.

('88 Code, § 111.61)

Cross-reference:

Alcoholic Beverage Control Administrator, see § 31.38

§ 111.61 SUSPENSION, REVOCATION OF LICENSE.

(A) Pursuant to the procedure set forth in KRS 243.480 through 243.590, city licenses may be either revoked or suspended by the City ABC Administrator upon the occurrence of:

(1) Any violation of the provisions of this chapter or any other alcoholic beverage control ordinance of the city;

(2) Any violation of any provision of state law in regard to alcoholic beverages or the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto; or

(3) Any other cause, reason or circumstance for which a state license may be revoked or suspended by the Board.

(B) However, city licenses must be revoked by the City ABC Administrator upon the occurrence of any cause or circumstance which requires revocation of state licenses pursuant to KRS 243.500 or the revocation of a state license to which a city license corresponds. Further, with the approval of the City ABC Administrator, a licensee may, as an alternative and in lieu of part or all of the days of any suspension period, pay the following sums to the city as set forth in KRS 243.480:

Licensees	Fee Per Day
Distillers	\$1,000
Rectifiers	\$1,000
Vintners	\$1,000
Brewers	\$1,000
Blenders	\$1,000
Wholesale liquor licensees	\$400
Wholesale beer licensees	\$400
Retail drink liquor licensees	\$50
Retail package liquor licensees	\$50
Retail beer licensees	\$50
All remaining licensees	\$50

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City ABC Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance, or occurrence and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard thereon. The hearing thereon shall be conducted by the City ABC Administrator in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City ABC Administrator. The City ABC Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusion of the hearing, the City ABC Administrator shall issue a written decision in regard thereto and mail a certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail.

('88 Code, § 111.62) (Ord. 2001-05, passed 8-29-01)

§ 111.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof in a court of competent jurisdiction, be sentenced to pay a fine for each offense or violation of no more than \$500.

(B) Any person found to be in violation of § 111.02 shall be guilty of a misdemeanor and shall be fined not more than \$300 or be imprisoned for not more than 90 days, or both. (Ord. 1987-2, passed 2-

18-87)

(C) Any person who violates the distillers license fee provision of § 111.20 shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990 (2), be sentenced to pay a fine of not less than \$100 nor more than \$200, or sentenced to imprisonment for no more than six months, or both for the first offense. For the second offense, the person shall be fined not less than \$200 nor more than \$500, or sentenced to imprisonment for no more than six months, or both. On the third and each subsequent offense, the person shall be sentenced to pay a fine of not less than \$500 nor more than \$5,000, or sentenced to imprisonment for not more than five years, or both.

(D) Any person who violates any provision of § 111.20 other than as discussed in division (B) above, or any provision of §§ 111.21 through 111.26, 111.40 through 111.42, 111.44 or 111.45 (A) shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990 (1) and 244.990 (1), be fined not less than \$100 nor more than \$200, or be imprisoned for no more than six months, or both for the first offense. On the second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$500, or be imprisoned for no more than six months, or both.

(E) Any person who violates any provision of § 111.43 shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990 (5), be fined not less than \$10 nor more than \$100.

(F) Any person who violates any provision of § 111.45 (B) shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990 (5) and (6), be fined not less than \$10 nor more than \$100 for misrepresentation of age. For use of a false, fraudulent or altered identification card, paper or other document to purchase, attempt to purchase, or otherwise obtain any alcoholic beverage, the person shall be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$500 for a first offense. For a second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$2,000.

('88 Code, § 111.99)

(G) Any violation of this chapter is hereby classified as a civil offense, pursuant to Chapter 41 and KRS 65.8808, and such classification is intended, and shall be construed, to provide an additional or supplemental means of obtaining compliance with the applicable code sections, and nothing contained herein or in Chapter 41 shall prohibit the enforcement of this chapter by any other means authorized by law.

(H) If a citation for a violation of this chapter is not contested by the person charged with the violation, the civil fine to be imposed for each offense shall be \$50 for the first offense, \$90 for the second offense, and \$210 for the third, and thereafter, offense.

(I) If a citation is contested and a hearing before the Code Enforcement Board is required, the maximum civil fine which may be imposed at the discretion of the Board shall be from \$20 to \$200 for the first offense, from \$60 to \$600 for the second offense, and from \$180 to \$1,800 for the third, and thereafter, offense.

(J) Each section of the ordinance violated shall be considered a separate fineable offense. If two or more sections of the ordinance are violated, the fines shall be cumulative and be enforced under the same citation. Each day a violation exists shall be considered a separate offense upon issuance of a separate citation.

(Ord. 1999-13, passed 8-17-99)

Cross-reference:

Code Enforcement Board, see Chapter 41

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TITLE III: ADMINISTRATION

CHAPTER 31: CITY OFFICIALS

CHAPTER 31: CITY OFFICIALS

Section

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GENERAL PROVISIONS

§ 31.01 OATH; BOND.

(A) *Oath.* Each officer of the city shall, before entering upon the discharge of duties of his office, take the following oath: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of this Commonwealth and the Constitution of the United States, and be faithful and true to the Commonwealth of Kentucky, so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of _____, according to law; and I do further solemnly swear (or affirm) that, since the adoption of the present Constitution, I being a citizen of this United States, have not fought a duel with deadly weapons within this state, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as a second in carrying a challenge, nor aided or assisted any person thus offending, so help me God," as established by Section 228 of the Kentucky Constitution.

(B) *Bond.* All officers, officials and employees of the city who handle public funds in the execution of their duties shall give good and sufficient bond to the city for the faithful and honest performance of his or her duties and as security for all money coming into that persons hands or under that person's control. The bond amount shall be based upon the maximum amount of public funds the officer, official, or employee handles at any given time during a fiscal year cycle and may be satisfied by a blanket or umbrella bond covering all or a group of city officers, officials and employees. The premiums therefor shall be paid from the general funds of the city.

('88 Code, § 31.01) (Ord. 2001-05, passed 8-29-01)

§ 31.02 COMPENSATION.

(A) City Council shall establish the compensation of every elected city officer not later than the first Monday in May in the year in which the officer is elected. An elected officer's compensation shall not be changed after his election or during his term of office.

(1) In order to equate the compensation of Mayors and Councilmembers with the purchasing power of the dollar, the Department of Local Government computes by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky, which provides that the Mayor in cities of the first class shall be paid at a rate no greater than \$12,000 per annum and Mayors in cities other than the first class and Councilmembers shall be paid at a rate no greater than \$7,200 per annum.

(2) The City Council shall set the compensation of these officers in accordance with KRS 83A.070 at a rate no greater than that stipulated by the Department of Local Government.

(B) The City Council shall establish the compensation of appointed city officers and city employees in accordance with the personnel and pay classification plan ordinance of the city.

(C) All fees and commissions authorized by law shall be paid into the city treasury for the benefit

of the city and shall not be retained by any officer or employee.

('88 Code, § 31.02) (Am. Ord. 2002-10, passed 8-15-02)

Statutory reference:

For provisions concerning compensation, see KRS 83A.070 and 83A.075

§ 31.03 REMOVAL FROM OFFICE.

(A) *Elected officers.*

(1) Any elected officer, in case of misconduct, inability or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the City Council exclusive of any member to be removed, who shall not vote in the deliberation of his removal.

(2) No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, has the right to appeal to the circuit court of the county and the appeal shall be on the record.

(3) No officer so removed is eligible to fill the office vacated before the expiration of the term to which originally elected.

(B) *Nonelected officers.* Nonelected city officers may be removed by the Mayor at will, unless otherwise provided by state law or ordinance.

('88 Code, § 31.03)

Statutory reference:

For provisions concerning the removal of elected officers, see KRS 83A.040 (9)

For provisions concerning the removal of nonelected officers, see KRS 83A.080 (2)

ELECTED OFFICIALS

§ 31.15 ELECTION PROCEDURE.

(A) The city shall forego the conducting of a non-partisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office. All candidates are required to file their nomination papers with the County Clerk not later than the second Tuesday in August before the day fixed by KRS Ch. 118 for holding a regular election, or as otherwise hereafter required by law.

(B) The city elects and adopts the provisions of KRS 83A.045(2)(b) as applicable to the non-partisan election of candidates to city office.

('88 Code, § 31.20) (Ord. 1988-14, passed 10-17-88; Am. Ord. 2001-05, passed 8-29-01)

§ 31.16 MAYOR.

(A) *Election; term of office.* The Mayor of this city shall be elected by the voters of the city at a regular election. A candidate for mayor shall be a resident of the city for not less than one year prior to his election. His term of office begins on the first day of January following his election and shall be for four years and until his successor qualifies. If a person is elected or appointed mayor in response to a vacancy and serves less than four calendar years, then that period of service shall not be considered for purposes of re-election to a term of office.

(B) *Qualifications.* The Mayor shall be at least 25 years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(C) *Vacancy.* If a vacancy occurs in the office of Mayor, Council shall fill the vacancy within 30 days. If for any reason, any vacancy in the office of Mayor is not filled within 30 days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(KRS 83A.040 (1), (2) and (6))

(1) When voting to fill a vacancy in the office of Mayor, a member of the City Council shall not vote for himself. (KRS 83A.040 (2)(c))

(2) When voting to fill a vacancy created by the resignation of the Mayor, the resigning Mayor shall not vote on his successor. (KRS 83A.040 (3))

(3) No vacancy by reason of a voluntary resignation in the office of Mayor shall occur unless a written resignation which specifies the resignation date is tendered to the City Council. The resignation shall be effective at the next regular meeting of the city legislative body. (KRS 83A.040 (7))

(4) If a vacancy occurs in the office of Mayor which is required by law to be filled temporarily by appointment, the City Council shall immediately notify in writing both the County Clerk and the Secretary of State of the vacancy. (KRS 83A.040 (8))

(5) The City Council shall elect from among its members an individual to preside over meetings of the City Council during any vacancy in the office of the Mayor in accordance with the provisions of KRS 83A.130. (KRS 83A.040 (2)(d))

(D) *Powers and duties.*

(1) The executive authority of the city is hereby vested in and shall be exercised by the Mayor. The Mayor shall enforce the Mayor-Council Plan, city ordinances and orders, and all applicable statutes. He shall supervise all departments of city government and the conduct of all city officers and employees under his jurisdiction and require each department to make reports to him as required by ordinance or as he deems desirable.

(2) The Mayor shall maintain liaison with related units of local government respecting interlocal contracting and joint activities.

(3) The Mayor shall report to the Council and to the public on the condition and needs of city government as he finds appropriate or as required by ordinance, but not less than annually. He shall

make any recommendations for actions by the Council he finds in the public interest.

(KRS 83A.130 (3))

(4) (a) Subject to disapproval of the Council, the Mayor shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statutes or ordinances. Upon promulgation or upon revision or rescission of the procedures, copies shall be filed with the person responsible for maintaining city records. (KRS 83A.130 (4))

(b) Subject to disapproval of the City Council, the Mayor shall promulgate policies and procedures applicable to all offices and posts in city departments, except the following offices and posts: all elected officials, all members of boards and commissions, the City Attorney or other legal counsel, consultants, advisors and counsel rendering temporary professional services, the City Engineer, independent contractors and members of volunteer organizations. (Ord. 1997-02, passed 3-3-97)

(5) Any delegation of the Mayor's power, duties or responsibilities to subordinate officers and employees and any expression of his official authority to fulfill executive functions shall be made by executive order. Executive orders shall be sequentially numbered by years and kept in a permanent file. (KRS 83A.130 (7))

(6) All bonds, notes, contracts and written obligations of the city shall be made and executed by the Mayor or his agent designated by executive order. (KRS 83A.130 (8))

(7) The Mayor shall be the appointing authority with power to appoint and remove all city employees, including police officers, except as tenure and terms of employment are protected by statute, ordinance, or contract and except for employees of the Council. (KRS 83A.130 (9))

(8) The Mayor shall provide for the orderly continuation of the functions of city government at any time he is unable to attend to the duties of his office by delegating responsibility for any function to be performed, in accordance with division (D)(5) above. However, the Mayor may not delegate the responsibility of presiding at meetings of the Council, and the authority to approve ordinances or promulgate administrative procedures may only be delegated to an elected officer. With approval of the Council, the Mayor may rescind any action taken in his absence under this section within 30 days of the action. If for any reason the disability of the Mayor to attend to his duties persists for 60 consecutive days, the office of Mayor may be declared vacant by a majority vote of the Council and the provisions of division (C) above shall apply. (KRS 83A.130 (10))

('88 Code, § 31.21)

Cross-reference:

Mayor-Council Plan, see Chapter 30

NONELECTED OFFICIALS

§ 31.30 ESTABLISHMENT OF NONELECTED CITY OFFICES.

(A) All nonelected city offices shall be created by ordinance which shall specify:

- (1) Title of office;
- (2) Powers and duties of office;
- (3) Oath of office;
- (4) Bond, if required; and
- (5) Compensation, which may be specifically established or set by reference to another ordinance in which the compensation is specifically established.

(B) With the exception of the Police Chief and all city police officers, all nonelected city officers shall be appointed by the Mayor with approval of City Council. The Police Chief and all city police officers shall be appointed by the Mayor at will and appointments need not be approved by City Council.

(C) All nonelected officers may be removed by the Mayor at will unless otherwise provided by statute or ordinance.

(D) The following are nonelected city offices: City Clerk, Deputy City Clerk, City Administrative Officer, City Attorney, Building Inspector, Zoning Administrator, City Treasurer, Assistant City Treasurer and Alcoholic Beverage Control Administrator.

('88 Code, § 31.35)

Statutory reference:

For provisions concerning nonelected city offices, see KRS 83A.080 (1) and (2)

§ 31.31 CITY CLERK.

(A) The city hereby establishes the office of the City Clerk. (Ord. 1984-14, passed 10-15-84)

(B) (1) The office of City Clerk may, by ordinance, be combined with any other nonelected city office by inclusion of the title and duties of the office.

(2) The city appoints and designates the City Clerk as the Collector of Taxes and Alcoholic Beverage Control Administrator for the city.

(Ord. 1967-1, passed 1-16-67)

(C) The duties and responsibilities of the Clerk shall include, but are not limited to the following:

- (1) Maintenance and safekeeping of the permanent records of the city;
- (2) Performance of the duties required of the "official custodian" or "custodian" pursuant to KRS 61.870 through 61.882;
- (3) Possession of the seal of the city if used;

(4) No later than January 31 of each year, mail to the Department of Local Government a list containing current city information including but not limited to the following:

(a) The correct name of the Mayor, legislative body members and the following appointed officials who are serving as of January 1 of each year:

1. City Clerk;
2. City Treasurer;
3. City Manager;
4. City Attorney;
5. Finance Director;
6. Police Chief;
7. Fire Chief; and
8. Public Works Director;

(b) The correct name of the city, mailing address for City Hall and telephone number of City Hall; and

(c) The name and telephone number of either an elected or appointed official to serve as a contact person that may be reached during normal business hours of 8:00 a.m. to 4:30 p.m.

(5) Performance of all other duties and responsibilities required of the City Clerk by statute or ordinance.

(KRS 83A.085)

(D) Compensation shall be in the amount as established by the City Council from time to time as set forth in § 31.02.

(E) The City Clerk, in his capacity as such and including his duties as City Tax Collector and Alcoholic Beverage Control Administrator, shall post bond in conformance with § 31.01(B).

('88 Code, § 31.36) (Ord. 2001-05, passed 8-29-01)

§ 31.32 DEPUTY CITY CLERK.

(A) *Establishment.* There is hereby created the office of Deputy City Clerk who shall serve as a deputy to the City Clerk.

(B) *Powers and duties.*

- (1) The Deputy City Clerk shall have the power and duty to execute all documents required by

any law or ordinance to be executed by the City Clerk, and affix the seal of the city thereto whenever required, including documents required by any law or ordinance to be executed by the City Clerk as the duly appointed Tax Collector for the city, as the duly appointed Alcoholic Beverage Control Administrator for the city and as the duly appointed License Inspector for the city.

(2) When signing any documents, the Deputy City Clerk shall sign the name of the City Clerk followed by the word "by" and the Deputy City Clerk's own name and the words "Deputy City Clerk."

(3) The powers and duties herein described shall be exercised by the Deputy City Clerk only in the absence of the City Clerk from his office in the city building.

(Ord. 1991-3, passed 3-18-91)

(C) *Oath; bond.* The Deputy City Clerk shall take the oath of officers as set forth in Section 228 of the Constitution of the Commonwealth of Kentucky. Each Deputy City Clerk shall be bonded in conformance with § 31.01(B). (Ord. 1984-15, passed 10-15-84; Am. Ord. 2001-05, passed 8-29-01)

(D) *Compensation.* Compensation shall be in the amount as established by the City Council from time to time as set forth in § 31.02.

('88 Code, § 31.37)

§ 31.33 CITY ADMINISTRATIVE OFFICER.

(A) *Establishment; oath.* There is hereby created the office of City Administrative Officer. The City Administrative Officer shall take the oath of officers as set forth in Section 228 of the Constitution of the Commonwealth of Kentucky.

(B) *Qualifications.*

(1) The City Administrative Officer shall be graduated from an accredited college or university with a degree in public administration or closely related field and shall possess not less than three years of progressively responsible experience in management, or in the alternate the City Administrative Officer shall possess any combination of education, training and abilities necessary to perform effectively the duties of the office.

(2) The City Administrative Officer shall possess extensive knowledge of the principles and practices of contemporary public administration with the ability to implement and carry out the policies and programs of the city.

(C) *Powers and duties.* The powers, duties and responsibilities of the City Administrative Officer shall be as follows:

(1) Advise the Mayor in policy formulation on overall problems of the city;

(2) Have major responsibility for preparation and administration of operating and capital improvement budgets under direction of the Mayor;

(3) Advise the Mayor in the appointment of subordinate administrative personnel if not delegated appointment authority by appropriate order;

- (4) Have continuing direct relationships with operating department heads on implementation and administration of programs;
- (5) Have general supervision of the Police Department and of the conduct of all city police officers and police employees, including the Director of Police Services, who shall report directly to the City Administrative Officer;
- (6) Have supervision of the purchasing of all services and supplies for the city, if delegated that authority by the Mayor; and
- (7) Carry out all additional duties lawfully delegated by appropriate order of the Mayor.
- (D) *Bond.* The City Administrative Officer shall be bonded in conformance with § 31.01(B). (Ord. 1981-20, passed 1-5-81; Am. Ord. 2001-05, passed 8-29-01)

(E) *Compensation.* Compensation shall be in the amount as established by the City Council from time to time as set forth in § 31.02.

('88 Code, § 31.38)

Cross-reference:

Discrimination Based on Handicapped Status, see Chapter 40

Statutory reference:

For provisions on the City Administrative Officer, see KRS 83A.090

§ 31.34 CITY ATTORNEY.

(A) *Establishment; qualifications.* There is hereby created the office of City Attorney, the qualifications for which are as herein provided. The City Attorney must be a practicing attorney, licensed to practice law in the Commonwealth of Kentucky and a resident of the county.

(B) *Powers and duties.* The powers and duties of the City Attorney shall be as follows:

(1) The City Attorney shall serve as legal advisor to the City Council, and to city officers and employees on matters pertaining to their duties. Unless excused by the Mayor, the City Attorney shall attend all regularly scheduled City Council meetings and shall attend special Council meetings and administrative board meetings upon request. The City Attorney shall prepare or review all contracts of the city submitted to him and shall prepare all normal and usual administrative ordinances, executive orders and legal correspondence.

(2) The City Attorney shall prosecute and defend the city in any and all suits or actions at law or equity to which the city may be a party, or in which it may be interested. The City Attorney shall perform all legal work in connection with any improvement projects of the city, including ordinances, resolutions and other documents, including easements, connected therewith. The City Attorney shall assist with the collection of unpaid taxes and assessments of the city, and he shall perform other duties as may from time to time be required by the City Council or the Mayor.

(C) *Oath; bond.* The City Attorney shall take the oath of officers as set forth in Section 228 of the Constitution of the Commonwealth of Kentucky. The City Attorney shall not be required to post bond. (Ord. 1980-18, passed 11-17-80)

(D) *Compensation.* Compensation shall be in the amount as established by the City Council from time to time as set forth in § 31.02.

('88 Code, § 31.39)

§ 31.35 BUILDING INSPECTOR.

(A) *Establishment.* The office of Building Inspector is hereby established.

(B) *Appointment.* The Building Inspector shall be appointed by the Mayor with the approval of the City Council pursuant to KRS 83A.080; and may be removed by the Mayor at will.

(C) *Qualifications.* To be eligible for appointment, the candidate for the position shall have had experience as an architect, structural engineer, building inspector or superintendent of building construction. He shall be in good health and physically capable of making the necessary examinations and inspections. He shall not have any interest whatever, either directly or indirectly, in the sale or manufacture of any material, process or device entering into or used in or in connection with building construction, alterations, removal and demolition.

(D) *Oath; bond.* No person shall be appointed or act as the Building Inspector unless the person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky and has provided a bond in conformance with § 31.01(B).

(E) *Powers and duties.*

(1) It shall be the duty of the Building Inspector to administer, execute and enforce the provisions of the official building, housing and plumbing ordinances of the city.

(2) The Building Inspector shall take any action as permitted by law to correct the violations of the provisions of the official building, housing and plumbing ordinances of the city.

(3) The Building Inspector shall have the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences or additions, alterations or structural changes.

('88 Code, § 31.40) (Ord. 1984-21, passed 12-17-84; Am. Ord. 2001-05, passed 8-29-01; Am. Ord. 2005-05, passed 4-18-05)

Cross-reference:

Enforcement by Building Inspector, see § 150.11

§ 31.36 ZONING ADMINISTRATOR.

(A) *Establishment.* The office of Zoning Administrator is hereby established.

(B) *Appointment.* The Zoning Administrator shall be appointed by the Mayor with the approval of City Council pursuant to KRS 83A.080, and may be removed by the Mayor at will.

(C) *Oath; bond.* No person shall be appointed or act as the Zoning Administrator unless the person has taken the oath required by Section 228 of the Kentucky Constitution and has provided a bond in conformance with § 31.01(B).

(D) *Powers and duties.* The Zoning Administrator shall have those powers and duties as specified in Section 16 of the Zoning Code of the city, adopted and incorporated by reference in Chapter 154 of this Code of Ordinances.

(E) *Compensation.* Compensation shall be in the amount as established by City Council from time to time as set forth in § 31.02.

('88 Code, § 31.41) (Ord. 2001-05, passed 8-29-01)

§ 31.37 CITY TREASURER; ASSISTANT CITY TREASURER.

(A) *City Treasurer.*

(1) *Establishment; powers and duties.* There is hereby established the office of City Treasurer. His duties shall be that of receiving and safely keeping all moneys which come into his hands as City Treasurer. He shall pay out these moneys on warrants, drafts or checks signed by one of the following individuals: the Mayor, the City Administrative Officer, the City Clerk, or the City Treasurer. He shall make settlements when required by the City Council. (Ord. 1967-1, passed 1-16-67; Am. Ord. 2001-05, passed 8-29-01)

(2) *Bond.* The City Treasurer shall be bonded in conformance with § 31.01(B). (Ord. 1968-4, passed 1-15-68; Am. Ord. 2001-05, passed 8-29-01)

(3) *Oath.* No person shall be appointed or act as the City Treasurer unless the person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky.

(4) *Compensation.* Compensation shall be in the amount as established by City Council from time to time as set forth in § 31.02.

(B) *Assistant City Treasurer.*

(1) *Establishment; powers and duties.* There is hereby created the office of Assistant Treasurer who shall serve as an Assistant to the City Treasurer. The Assistant Treasurer shall have the power and the duty to exercise and perform all of the powers and duties imposed on the City Treasurer by law or ordinance. When signing any documents, the Assistant Treasurer shall sign the name of the Assistant Treasurer followed by the word "by" and the Assistant Treasurer's own name and the words "Assistant Treasurer." The powers and duties herein described shall be exercised by the Assistant Treasurer only in the absence of the City Treasurer from his office in the City Building.

(2) *Oath; bond.* The Assistant Treasurer shall take the oath of office as set forth in Section 228 of the Constitution of the Commonwealth of Kentucky. The Assistant Treasurer shall be bonded in conformance with § 31.01(B).

(3) *Compensation.* The compensation of the Assistant Treasurer shall be in the amount as established by City Council from time to time as set forth in § 31.02.

(Ord. 1987-15, passed 11-2-87; Am. Ord. 2001-05, passed 8-29-01)

('88 Code, § 31.42)

§ 31.38 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) *Establishment.* The city hereby establishes the office of Alcoholic Beverage Control Administrator. This office shall be filled by the City Clerk as set forth in § 31.31 (B)(2).

(B) *Functions, powers and duties.* The functions of the Alcoholic Beverage Control Administrator shall be the same with respect to city licenses and regulations, as the functions of the State Alcoholic Beverage Control Board with respect to state licenses and regulations, except that no regulation adopted by the Administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the State Board. No regulation of the Administrator shall become effective until it has been approved by State Alcoholic Beverage Control Board. (KRS 241.190)

(C) *Compensation.* Compensation shall be in the amount as established by the City Council from time to time as set forth in § 31.02.

(D) *Oath and bond.* No person shall be appointed or act as the Alcoholic Beverage Control Administrator unless the person has taken the oath required by Section 228 of the Constitution of the Commonwealth of Kentucky and has provided a bond in conformance with § 31.01(B). (KRS 241.180)

('88 Code, § 31.44) (Ord. 2001-05, passed 8-29-01)

Cross-reference:

Alcoholic Beverages, see Chapter 111

City Clerk, see § 31.31

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ORDINANCE 2007-07

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, AMENDING SECTION 111.40 OF THE CITY OF FORT MITCHELL KENTUCKY CODE OF ORDINANCES TO PROVIDE FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

BE IT ORDAINED BY THE CITY OF FORT MITCHELL, KENTUCKY:

WHEREAS, Kentucky Revised Statutes 244.290 was amended to allow cities of the fourth class such as Fort Mitchell, Kentucky, to establish hours and times in which distilled spirits and wine may be sold within their jurisdictional boundaries; and,

WHEREAS, the city of Fort Mitchell, Kentucky desires to establish the hours that distilled spirits and wine may be sold, including Sundays; and

WHEREAS, this Ordinance amends Section 111.40 and any other contradictory provisions currently in force in the Code of Ordinances of the City of Fort Mitchell, Kentucky

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Fort Mitchell, Kentucky as follows:

SECTION I

Section 111.40(A) of the Code of Ordinances of the City of Fort Mitchell is hereby amended to read in full as follows:

Section 111.40 HOURS.

(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, whether by the drink or by package, in the City between the hours of 2:30 a.m. and 6:00 a.m. of any day. On Sundays no distilled spirits, wine, or malt beverages may be sold at retail by the drink in the City between the hours of 2:30 a.m. and ~~4:00 p.m.~~ 11:00 a.m.; and no distilled spirits, wine, or malt beverages may be sold at retail by the package on Sunday between the hours of 2:30 a.m. and 11:00 a.m. In addition, no distilled spirits, wine, or malt beverages may be sold at retail in the City during the hours when any polls are open in the City on any election day.

SECTION II

Section 111.40(D) of the Code of Ordinances of the City of Fort Mitchell is

hereby amended to read in full as follows:

(D) All retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, whether by the drink or by package, according to the terms of their individual license, during the hours of 6:00 a.m. to 2:30 a.m. the following day, on every day except for Sundays, and except for any hours when any polls are open in the City on any election day. All retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, by the drink, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of ~~4:00 p.m.~~ 11:00 a.m. on Sundays and 2:30 a.m. on Mondays. All retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, by package, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 11:00 a.m. on Sundays and 2:30 a.m. on Mondays.

SECTION III

All ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION IV

This Ordinance shall be published by summary.

CITY OF FORT MITCHELL, KENTUCKY

BY: Thomas E. Holocher
THOMAS E. HOLOCHER, Mayor

ATTEST:

Amy B. Able
Amy Able, City Clerk

DATE OF FIRST READING: December 3, 2007

DATE OF SECOND READING AND ENACTMENT: December 8, 2007

DATE OF PUBLICATION: January 1, 2008

TITLE AND SUMMARY OF ORDINANCE 2007-07

TITLE

ORDINANCE 2007-07

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, AMENDING SECTION 111.40 OF THE CITY OF FORT MITCHELL KENTUCKY CODE OF ORDINANCES TO PROVIDE FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

SUMMARY

Ordinance 2007-07 amends Section 111.40(A) and 111.40 (D) in order to establish the hours that distilled spirits, wine and malt beverages may be sold at retail by the drink on Sunday within the city limits of the City of Fort Mitchell, Kentucky. The Ordinance amends Section 111.40(A) and 111.40 (D) which previously permitted sales of distilled spirits, wine and malt beverages between the hours of 1:00 p.m. on Sundays to 2:30 a.m. on Mondays, to now permit all retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the City to sell distilled spirits, wine, and malt beverages, by the drink between the hours of 11:00 a.m. on Sundays to 2:30 a.m. on Mondays,

Ordinance 2007-07 supersedes and repeals any ordinances or parts thereof which are in conflict with it and orders that the ordinance be published by summary.

The full text of Ordinance 2007-07 is available for examination in the office of the City Clerk of the City of Fort Mitchell, Kentucky, in the Fort Mitchell Municipal Building, Dixie Highway and Highland Avenue, Fort Mitchell, Kentucky, 41017.

CERTIFICATION

I hereby certify that Ordinance 2007-07 was duly executed by the City of Fort Mitchell, Kentucky, at a meeting on December 8, 2007; and that the foregoing summary of ordinance was prepared by Robert C. Ziegler, attorney for the City of Fort Mitchell, Kentucky, duly licensed to practice in the Commonwealth of Kentucky.

CITY OF FORT MITCHELL, KENTUCKY

BY: Thomas E. Holocher
THOMAS E. HOLOCHER, Mayor

ATTEST: Amy B. Able
Amy Able, City Clerk

DATE OF FIRST READING: December 3, 2007
DATE OF SECOND READING AND ENACTMENT: December 8, 2007
DATE OF PUBLICATION: January 1, 2008

2007 DEC 14 A 10:27

TITLE AND SUMMARY OF ORDINANCE 2006-13

TITLE

ORDINANCE 2006-13

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, AMENDING SECTION 111.40 OF THE CITY OF FORT MITCHELL KENTUCKY CODE OF ORDINANCES TO PROVIDE FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

SUMMARY

Ordinance 2006-13 amends Section 111.40(A) and 111.40 (D) in order to establish the hours that distilled spirits, wine and malt beverages may be sold at retail by the drink on Sunday within the city limits of the City of Fort Mitchell, Kentucky. The Ordinance amends Section 111.40(A) and 111.40 (D) which previously permitted sales of distilled spirits, wine and malt beverages between the hours of 1:00 p.m. on Sundays to 2:30 a.m. on Mondays, to now permit all retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the City to sell distilled spirits, wine, and malt beverages, by the drink between the hours of 11:00 a.m. on Sundays to 2:30 a.m. on Mondays,

Ordinance 2006-13 supersedes and repeals any ordinances or parts thereof which are in conflict with it and orders that the ordinance be published by summary.

The full text of Ordinance 2006-13 is available for examination in the office of the City Clerk of the City of Fort Mitchell, Kentucky, in the Fort Mitchell Municipal Building, Dixie Highway and Highland Avenue, Fort Mitchell, Kentucky, 41017.

CERTIFICATION

I hereby certify that Ordinance 2006-13 was duly executed by the City of Fort Mitchell, Kentucky, at a meeting on December 18, 2006; and that the foregoing summary of ordinance was prepared by Robert C. Ziegler, attorney for the City of Fort Mitchell, Kentucky, duly licensed to practice in the Commonwealth of Kentucky.

CITY OF FORT MITCHELL, KENTUCKY

BY:

Thomas E. Ho Locher
THOMAS E. HOLOCHER, Mayor

ATTEST: Amy B. Able
Amy Able, City Clerk

DATE OF FIRST READING: December 11, 2006
DATE OF SECOND READING AND ENACTMENT: December 18, 2006
DATE OF PUBLICATION: June 2, 2007

ORDINANCE 2006-13

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, AMENDING SECTION 111.40 OF THE CITY OF FORT MITCHELL KENTUCKY CODE OF ORDINANCES TO PROVIDE FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

BE IT ORDAINED BY THE CITY OF FORT MITCHELL, KENTUCKY:

WHEREAS, Kentucky Revised Statutes 244.290 was amended to allow cities of the fourth class such as Fort Mitchell, Kentucky, to establish hours and times in which distilled spirits and wine may be sold within their jurisdictional boundaries; and,

WHEREAS, the city of Fort Mitchell, Kentucky desires to establish the hours that distilled spirits and wine may be sold, including Sundays; and

WHEREAS, this Ordinance amends Section 111.40 and any other contradictory provisions currently in force in the Code of Ordinances of the City of Fort Mitchell, Kentucky

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Fort Mitchell, Kentucky as follows:

SECTION I

Section 111.40(A) of the Code of Ordinances of the City of Fort Mitchell is hereby amended to read in full as follows:

Section 111.40 HOURS.

(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, whether by the drink or by package, in the City between the hours of 2:30 a.m. and 6:00 a.m. of any day. On Sundays no distilled spirits, wine, or malt beverages may be sold at retail by the drink in the City between the hours of 2:30 a.m. and ~~4:00 p.m.~~ 11:00 a.m.; and no distilled spirits, wine, or malt beverages may be sold at retail by the package on Sunday between the hours of 2:30 a.m. and 11:00 a.m. In addition, no distilled spirits, wine, or malt beverages may be sold at retail in the City during the hours when any polls are open in the City on any election day.

SECTION II

Section 111.40(D) of the Code of Ordinances of the City of Fort Mitchell is hereby amended to read in full as follows:

(D) All retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, whether by the drink or by package, according to the terms of their individual license, during the hours of 6:00 a.m. to 2:30 a.m. the following day, on every day except for Sundays, and except for any hours when any polls are open in the City on any election day. All retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, by the drink, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of ~~4:00 p.m.~~ 11:00 a.m. on Sundays and 2:30 a.m. on Mondays. All retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, by package, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 11:00 a.m. on Sundays and 2:30 a.m. on Mondays.

SECTION III

All ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION IV

This Ordinance shall be published by summary.

CITY OF FORT MITCHELL, KENTUCKY

BY: Thomas E. Holocher
THOMAS E. HOLOCHER, Mayor

ATTEST:

Amy B. Able
Amy Able, City Clerk

DATE OF FIRST READING: December 11, 2006
DATE OF SECOND READING AND ENACTMENT: December 18, 2006
DATE OF PUBLICATION: June 3, 2007

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

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GENERAL PROVISIONS

§ 111.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) As used herein the words and phrases defined in KRS 241.01 and 243.010 have the meanings indicated therein.

(B) The following words and phrases have the meanings indicated:

BOARD. The State Alcoholic Beverage Control Board established pursuant to KRS 241.030.

CITY ABC ADMINISTRATOR. The person appointed to the office of Alcoholic Beverage Control Administrator created and established by the city.

CITY LICENSE. A license established and authorized pursuant to the terms hereof.

CITY LICENSEE. A person who has been issued a city license pursuant to the terms hereof.

PERSON. Any natural person, corporation, partnership, joint venture or unincorporated association of persons or any combination thereof, and the shareholders, officers, agents, servants and employees thereof.

PREMISES. The premises described in the city license issued pursuant to the terms hereof and the application therefor.

STATE LICENSE. A license authorized by KRS 243.030 to 243.680.

TRAFFIC IN ALCOHOLIC BEVERAGES. Any action, business or transaction in regard to the production, storage, transportation, distribution, sale, delivery and transfer of alcoholic beverages.
('88 Code, § 111.01)

§ 111.02 POSSESSION BY MINORS ON PRIVATE PROPERTY.

No person being the owner, occupant or otherwise having the care, custody or control of any property located in the city shall knowingly allow any person under the age of 21 years to remain on the property while in the possession of any alcoholic beverage or while consuming any alcoholic beverage.

('88 Code, § 111.02) (Ord. 1987-2, passed 2-18-87) Penalty, see § 111.99

LICENSES

§ 111.20 CLASSIFICATION OF LICENSES; FEE SCHEDULE.

(A) For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in the following schedule. The actions, business, and transactions authorized and permitted thereby and the expiration dates thereof shall be and are the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in the following schedule. The fees for city licenses shall be the maximum allowed by law as indicated in the following schedule.

(B) No person shall cause, permit or engage in any of the actions, business or transactions authorized by city and state licenses within the city without both a valid city license and a valid state license therefor:

[See table on following page]

Alcoholic Beverages

<i>License Description</i>	<i>Statutory Authorization</i>	<i>Statutory Description of Authorized Business and Transactions</i>	<i>Annual Expiration Date</i>	<i>Fee per Annum</i>
Distilled Spirits and Wine Licenses				
Distillers	243.030 (1) and 243.070	243.120 and 243.130	June 30	\$200
Rectifiers	243.030 (2)	243.120 and 243.130	June 30	\$200
Blenders	243.030 (3)	243.140	June 30	\$200
Wholesaler	243.030 (6)	243.160 and 243.170	June 30	\$200
Retail package	243.030 (7)	243.240	June 30	\$250
Retail drink	243.030 (8)	243.250	June 30	\$300
Special temporary	243.030 (16)	243.260	NA	1/6 of retail package license fee per month
Special private club	243.030 (17)	243.270	June 30	Alcohol \$75 Beer \$25
Special Sunday drink	243.030 (18)	244.290	June 30	\$100
Nonresident special agent	243.030 (19)	243.340	June 30	\$40
Malt Beverage Licenses				
Brewers	243.040 (1) and 243.070	243.150	June 30	\$200
Microbrewery	243.040 (2)	243.157	June 30	\$200
Distributors	243.040 (3)	243.180	June 30	\$100
Retailers (new applicants or renewals)	243.040 (4) and 243.070	243.280	June 30	\$50
Special temporary	243.040 (7)	243.290	NA	\$25/month

(Ord. 1985-12, passed 9-9-85) Penalty, see § 111.99

§ 111.21 FORM; CONTENT OF CITY LICENSE.

(A) The city licenses authorized and established hereby shall each be evidenced by a document, the form and content of which shall be prescribed by regulation of the City ABC Administrator.

(B) However, the documents must be of the same color and designation as those of the state licenses to which the city licenses correspond and must:

(1) Comply with all of the provisions for state licenses required by KRS 243.440; and

(2) Contain a declaration that the license authorizes the search of the licensed premises by any peace officer at any time for any purpose; the removal therefrom of any evidence of any crime or other violation of any law; and the use thereof in any trial or hearing in regard thereto.

('88 Code, § 111.21)

§ 111.22 APPLICATION; ISSUANCE.

Subject to the limitations and restrictions described herein, city licenses shall be originally issued by the City ABC Administrator and renewed by him upon the expiration thereof upon receipt of the following documents and fees more than 30 days prior to the effective date of an original license and more than 15 days prior to the expiration date of any license to be renewed:

(A) A written application therefor with the truth of the information, statements and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of an application shall be prescribed by regulation of the City ABC Administrator; however, provision for the

following information, statements and representations shall and must be included therein:

(1) All information required by KRS 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the search of the licensed premises by any peace officer at any time for any purpose, the removal therefrom of any evidence of any crime or other violation of any law and the use thereof in any trial or hearing in regard thereto.

(3) The names, addresses, photographs and fingerprints of the applicant and all shareholders, officers, agents, servants and employees thereof.

(B) The approval of the applicant, the application and the premises described therein by the City ABC Administrator.

(C) Documentary evidence of a valid state license which corresponds to the city license for which the application is being made.

(D) The applicable fee, paid in cash or by certified or cashier's check, for the city license which is the subject of the application.

('88 Code, § 111.22) (Ord. 2001-05, passed 8-29-01)

§ 111.23 APPROVAL OF APPLICATION.

Within 30 days of the date of the application for an original city license and 15 days of the date of an application for renewal of a city license, the City ABC Administrator shall, by mail or personal delivery thereof, notify the applicant, in writing, of either the approval thereof or the

disapproval thereof and a hearing in regard thereto.

('88 Code, § 111.23)

§ 111.24 DENIAL OF APPLICATION.

As is similarly set forth in KRS 243.450, the City ABC Administrator shall not approve any application for a city license if:

(A) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(B) The applicant and/or any shareholder, officer, agent, servant or employee thereof has caused, permitted or engaged in any act for which the revocation of a state or city license is authorized;

(C) The applicant and/or any shareholder, officer, agent, servant or employee thereof had a state license or city license which was revoked within two years of the date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during the time;

(D) Any statement or representation in the application is false; or

(E) In the exercise of sound discretion, the City ABC Administrator determines any cause or reason for refusing to approve an application reasonably related to the purpose and objective of this chapter and the state laws and regulations of the State Alcoholic Beverage Control Board. Among those factors that the City ABC Administrator shall consider in the exercise of his discretion are: public sentiment in the area, number of licensed outlets in the area, potential for future growth, type of area involved, type of

transportation available and financial potential of the area.

('88 Code, § 111.24)

§ 111.25 TRANSFER OF LICENSE.

A city licensee shall not assign or transfer any city license to any other person or premises unless that person and/or premises complies with all of the provisions of this chapter, the transfer of the license is approved by the City ABC Administrator and the transfer of the state license to which the city license corresponds is approved by the state. A transfer fee of \$10 shall be paid to the city for the transfer of the city license.

('88 Code, § 111.25) Penalty, see § 111.99

§ 111.26 GROCERY, GASOLINE SELLERS AND THE LIKE PROHIBITED FROM OBTAINING LICENSE.

(A) As prohibited in KRS 243.280, no city license shall be issued to sell malt beverages at retail within or upon any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted unless there is continuously maintained an inventory on the premises for sale at retail of not less than \$5,000 of food, groceries, and related products valued at cost.

(B) No city license shall be issued to sell distilled spirits or wine at retail by the drink or package from any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline or lubricating oil.

('88 Code, § 111.26)

SALE OF ALCOHOLIC BEVERAGES**§ 111.40 HOURS.**

(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, whether by the drink or by package, in the city between the hours of 2:30 a.m. and 6:00 a.m. of any day. On Sundays, no distilled spirits, wine, or malt beverages may be sold at retail by the drink in the city between the hours of 2:30 a.m. and 1:00 p.m., and no distilled spirits, wine, or malt beverages may be sold at retail by the package in the city on Sunday between the hours of 2:30 a.m. and 11:00 a.m. In addition, no distilled spirits, wine, or malt beverages may be sold at retail in the city during the hours when any polls are open in the city on any election day.

(B) During the restricted hours set forth in division (A) of this section, 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 by this section. 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 city license was issued. All other persons shall vacate the licensed premises and remove themselves therefrom during such times; however, any person upon the premises who purchased any alcoholic beverages by the drink from the licensee within 30 minutes prior to any such times may remain upon the premises for a period not to exceed 30 minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of the 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 the approved department, and such approved department is continuously kept locked, closed off, and separated from the remainder of 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.

(D) All retail sellers that hold a valid license for the sale of distilled spirits, wine, and malt beverages within the jurisdictional boundaries of the city are hereby authorized to sell distilled spirits, wine, and malt beverages, whether by the drink or by package, according to the terms of their individual license, during the hours of 6:00 a.m. to 2:30 a.m. the following day, on every day except for Sundays, and except for any hours when any polls are open in the city on any election day. All retail sellers that hold a valid license for the sale of distilled spirits, wine, and malt beverages within the jurisdictional boundaries of the city are hereby authorized to sell distilled spirits, wine, and malt beverages, by the drink, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. All retail sellers that hold a valid license for the sale of distilled spirits, wine, and malt beverages within the jurisdictional boundaries of the city are hereby authorized to sell distilled spirits, wine, and malt beverages, by

package, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 11:00 a.m. on Sundays and 2:30 a.m. on Mondays. ('88 Code, § 111.40) (Am. Ord. 2004-17, passed 10-18-04) Penalty, see § 111.99

§ 111.41 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

(A) At all times during which any person has a valid city license issued pursuant to the provisions hereof, that person shall fully comply with all of the rules, regulations, requirements and prohibitions set forth in this chapter.

(B) A city licensee shall comply fully with all of the provisions hereof and all of the rules and regulations of the City ABC Administrator in regard thereto; all provisions of the state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard to the licensed premises and the actions, business and transactions conducted thereon subsequent to the issuance of a state license therefor and prior to the expiration, revocation or suspension thereof which are hereby incorporated herein and made applicable to all city licenses corresponding thereto, the premises described therein, and the actions, business and transactions conducted thereon; and the city licensee shall comply fully therewith.

('88 Code, § 111.41) Penalty, see § 111.99

§ 111.42 MAINTENANCE OF STATE LICENSE.

A city licensee shall maintain the state license to which the city license corresponds and fully comply with all state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto.

('88 Code, § 111.42) Penalty, see § 111.99

§ 111.43 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

As required by KRS 244.083, a city licensee who has a valid city retail distilled spirits, wine or malt beverage license shall cause to be displayed in a conspicuous and prominent place on the licensed premises each of the following documents so that they may be seen and observed by all persons entering the licensed premises:

(A) A sign or placard at least eight inches by 11 inches in size with the following message printed or displayed thereon in 30 point or larger type:

“Persons under the age of twenty-one (21) years are subject to a fine up to \$500 if they:

(1) Enter licensed premises to buy or have served or delivered to them any alcoholic beverages; or

(2) Possess, purchase or attempt to purchase any alcoholic beverages; or

(3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.”

(B) All valid city licenses issued therefor and the state licenses to which they correspond. The failure to so display the licenses shall be prima facie evidence that no valid licenses have been issued or exist and all actions, business and transactions authorized thereby conducted on the premises are illegal and in violation of the provisions hereof and the state statutes and regulations of the State Alcoholic Beverage Control Board in regard thereto.

('88 Code, § 111.43) Penalty, see § 111.99

Statutory reference:

For provisions concerning the display of state license required, see KRS 243.620, 244.270 and 244.360

§ 111.44 CRIMINAL CONDUCT ON PREMISES PROHIBITED.

A city licensee shall not cause, permit or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime or other violation of any law, rule or regulation of any governmental agency having jurisdiction thereof or any officer or agency thereof.

('88 Code, § 111.44) Penalty, see § 111.99

§ 111.45 CONDUCTING BUSINESS WITH MINOR.

As prohibited by KRS 244.080 and 244.085, no person shall cause, permit, encourage, or engage in any of the following actions in the city:

(A) The possession or consumption of any alcoholic beverages by any person under 21 years of age in or upon any licensed premises or public places; and

(B) The misrepresentation of the name, address, age or other identification of any person under 21 years of age for the purpose of obtaining alcoholic beverages.

('88 Code, § 111.45) Penalty, see § 111.99

§ 111.46 ILLEGAL SEXUAL CONDUCT; EXPOSURE OF HUMAN BODY.

No person shall cause, permit, encourage or engage in any of the following activities or display still or motion pictures thereof on licensed premises:

(A) Sexual conduct, as defined in KRS 531.010 (4).

(B) Any acts, simulated acts, exhibitions, representations, depictions or descriptions of:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;

(3) Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal;

(4) Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function; or

(5) Flagellation, mutilation or torture for purpose of sexual arousal, gratification, or abuse.

(C) The appearance, display, depiction of:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point above the top of the areola; or

(2) Human male genitals in a discernible turgid state even in completely and opaquely covered.

('88 Code, § 111.46) (Ord. 2000-3, passed 4-17-00) Penalty, see § 111.99

§ 111.47 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

(A) A city licensee who has a valid city wholesale or retail distilled spirits, wine or malt beverage license must conduct the actions, business and transactions authorized thereby upon the licensed premises.

(B) When no actions, business or transactions are conducted thereon for a period of 90 consecutive calendar days, the city license therefor shall become null and void and revoked by the City ABC Administrator unless:

(1) The city licensee is unable to continue in business at the premises for which a license is issued due to an act of God; casualty; the acquisition of the premises by any federal, state, city, or other governmental agency under power of eminent domain; acquisition of any private corporation through its power of eminent domain granted to it, whether the acquisition is voluntary or involuntary; or loss of lease through failure of the landlord to renew the existing lease; and

(2) Prior to the discontinuance of business at the licensed premises or immediately thereupon if it is due to an act of God, the city licensee delivers to the City ABC Administrator a written statement signed by the city licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the licensed premises for any of the causes or reasons described herein.

('88 Code, § 111.47) (Am. Ord. 2004-17, passed 10-18-04)

ADMINISTRATION AND ENFORCEMENT

§ 111.60 RIGHT OF ENTRY; SEARCH AND SEIZURE.

A city licensee shall permit the entry and search of the licensed premises by any peace officer at any time for any purpose, and the

seizure and removal therefrom of any evidence of any crime or other violation of law and the use thereof in any trial or hearing in regard thereto.

('88 Code, § 111.61)

Cross-reference:

Alcoholic Beverage Control Administrator, see § 31.38

§ 111.61 SUSPENSION, REVOCATION OF LICENSE.

(A) Pursuant to the procedure set forth in KRS 243.480 through 243.590, city licenses may be either revoked or suspended by the City ABC Administrator upon the occurrence of:

(1) Any violation of the provisions of this chapter or any other alcoholic beverage control ordinance of the city;

(2) Any violation of any provision of state law in regard to alcoholic beverages or the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto; or

(3) Any other cause, reason or circumstance for which a state license may be revoked or suspended by the Board.

(B) However, city licenses must be revoked by the City ABC Administrator upon the occurrence of any cause or circumstance which requires revocation of state licenses pursuant to KRS 243.500 or the revocation of a state license to which a city license corresponds. Further, with the approval of the City ABC Administrator, a licensee may, as an alternative and in lieu of part or all of the days of any suspension period, pay the following sums to the city as set forth in KRS 243.480:

Fort Mitchell - Business Regulations

<u>Licensees</u>	<u>Fee Per Day</u>
Distillers	\$1,000
Rectifiers	\$1,000
Vintners	\$1,000
Brewers	\$1,000
Blenders	\$1,000
Wholesale liquor licensees	\$400
Wholesale beer licensees	\$400
Retail drink liquor licensees	\$50
Retail package liquor licensees	\$50
Retail beer licensees	\$50
All remaining licensees	\$50

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City ABC Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance, or occurrence and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard thereon. The hearing thereon shall be conducted by the City ABC Administrator in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City

ABC Administrator. The City ABC Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusion of the hearing, the City ABC Administrator shall issue a written decision in regard thereto and mail a certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail. ('88 Code, § 111.62) (Ord. 2001-05, passed 8-29-01)

§ 111.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof in a court of competent jurisdiction, be sentenced to pay a fine for each offense or violation of no more than \$500.

(B) Any person found to be in violation of § 111.02 shall be guilty of a misdemeanor and shall be fined not more than \$300 or be imprisoned for not more than 90 days, or both. (Ord. 1987-2, passed 2-18-87)

(C) Any person who violates the distillers license fee provision of § 111.20 shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990 (2), be sentenced to pay a fine of not less than \$100 nor more than \$200, or sentenced to imprisonment for no more than six months, or both for the first offense. For the second offense, the person shall be fined not less than \$200 nor more than \$500, or sentenced to imprisonment for no more than six months, or both. On the third and each subsequent offense, the person shall be sentenced to pay a fine of not less than \$500 nor more than \$5,000, or sentenced to imprisonment for not more than five years, or both.

(D) Any person who violates any provision of § 111.20 other than as discussed in division (B) above, or any provision of §§ 111.21 through 111.26, 111.40 through 111.42, 111.44 or 111.45 (A) shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990 (1) and 244.990 (1), be fined not less than \$100 nor more than \$200, or be imprisoned for no more than six months, or both for the first offense. On the second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$500, or be imprisoned for no more than six months, or both.

(E) Any person who violates any provision of § 111.43 shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990 (5), be fined not less than \$10 nor more than \$100.

(F) Any person who violates any provision of § 111.45 (B) shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990 (5) and (6), be fined not less than \$10 nor more than \$100 for misrepresentation of age. For use of a false, fraudulent or altered identification card, paper or other document to purchase, attempt to purchase, or otherwise obtain any alcoholic beverage, the person shall be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$500 for a first offense. For a second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$2,000.

('88 Code, § 111.99)

(G) Any violation of this chapter is hereby classified as a civil offense, pursuant to Chapter 41 and KRS 65.8808, and such classification is intended, and shall be construed, to provide an additional or supplemental means of obtaining compliance with the applicable code sections, and

nothing contained herein or in Chapter 41 shall prohibit the enforcement of this chapter by any other means authorized by law.

(H) If a citation for a violation of this chapter is not contested by the person charged with the violation, the civil fine to be imposed for each offense shall be \$50 for the first offense, \$90 for the second offense, and \$210 for the third, and thereafter, offense.

(I) If a citation is contested and a hearing before the Code Enforcement Board is required, the maximum civil fine which may be imposed at the discretion of the Board shall be from \$20 to \$200 for the first offense, from \$60 to \$600 for the second offense, and from \$180 to \$1,800 for the third, and thereafter, offense.

(J) Each section of the ordinance violated shall be considered a separate fineable offense. If two or more sections of the ordinance are violated, the fines shall be cumulative and be enforced under the same citation. Each day a violation exists shall be considered a separate offense upon issuance of a separate citation. (Ord. 1999-13, passed 8-17-99)

Cross-reference:

Code Enforcement Board, see Chapter 41

CITY OF FORT MITCHELL

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

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- 111.02 Possession by minors on private property

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GENERAL PROVISIONS

§ 111.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) As used herein the words and phrases defined in KRS 241.01 and 243.010 have the meanings indicated therein.

(B) The following words and phrases have the meanings indicated:

BOARD. The State Alcoholic Beverage Control Board established pursuant to KRS 241.030.

CITY ABC ADMINISTRATOR. The person appointed to the office of Alcoholic Beverage Control Administrator created and established by the city.

CITY LICENSE. A license established and authorized pursuant to the terms hereof.

CITY LICENSEE. A person who has been issued a city license pursuant to the terms hereof.

PERSON. Any natural person, corporation, partnership, joint venture or unincorporated association of persons or any combination thereof, and the shareholders, officers, agents, servants and employees thereof.

PREMISES. The premises described in the city license issued pursuant to the terms hereof and the application therefor.

STATE LICENSE. A license authorized by KRS 243.030 to 243.680.

TRAFFIC IN ALCOHOLIC BEVERAGES. Any action, business or transaction in regard to the production, storage, transportation, distribution, sale, delivery and transfer of alcoholic beverages.
('88 Code, § 111.01)

§ 111.02 POSSESSION BY MINORS ON PRIVATE PROPERTY.

No person being the owner, occupant or otherwise having the care, custody or control of any property located in the city shall knowingly allow any person under the age of 21 years to remain on the property while in the possession of any alcoholic beverage or while consuming any alcoholic beverage.

('88 Code, § 111.02) (Ord. 1987-2, passed 2-18-87) Penalty, see § 111.99

LICENSES

§ 111.20 CLASSIFICATION OF LICENSES; FEE SCHEDULE.

(A) For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in the following schedule. The actions, business, and transactions authorized and permitted thereby and the ~~expiration~~ expiration dates thereof shall be and are the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in the following schedule. The fees for city licenses shall be the maximum allowed by law as indicated in the following schedule.

(B) No person shall cause, permit or engage in any of the actions, business or transactions authorized by city and state licenses within the city without both a valid city license and a valid state license therefor:

[See table on following page]

<i>License Description</i>	<i>Statutory Authorization</i>	<i>Statutory Description of Authorized Business and Transactions</i>	<i>Annual Expiration Date</i>	<i>Fee per Annum</i>
Distilled Spirits and Wine Licenses				
Distillers	243.030 (1) and 243.070	243.120 and 243.130	June 30	\$200
Rectifiers	243.030 (2)	243.120 and 243.130	June 30	\$200
Blenders	243.030 (3)	243.140	June 30	\$200
Wholesaler	243.030 (6)	243.160 and 243.170	June 30	\$200
Retail package	243.030 (7)	243.240	June 30	\$250
Retail drink	243.030 (8)	243.250	June 30	\$300
Special temporary	243.030 (16)	243.260	NA	1/6 of retail package license fee per month
Special private club	243.030 (17)	243.270	June 30	Alcohol \$75 Beer \$25
Special Sunday drink	243.030 (18)	244.290	June 30	\$100
Nonresident special agent	243.030 (19)	243.340	June 30	\$40
Malt Beverage Licenses				
Brewers	243.040 (1) and 243.070	243.150	June 30	\$200
Microbrewery	243.040 (2)	243.157	June 30	\$200
Distributors	243.040 (3)	243.180	June 30	\$100
Retailers (new applicants or renewals)	243.040 (4) and 243.070	243.280	June 30	\$50
Special temporary	243.040 (7)	243.290	NA	\$25/month

(Ord. 1985-12, passed 9-9-85) Penalty, see § 111.99

§ 111.21 FORM; CONTENT OF CITY LICENSE.

(A) The city licenses authorized and established hereby shall each be evidenced by a document, the form and content of which shall be prescribed by regulation of the City ABC Administrator.

(B) However, the documents must be of the same color and designation as those of the state licenses to which the city licenses correspond and must:

(1) Comply with all of the provisions for state licenses required by KRS 243.440; and

(2) Contain a declaration that the license authorizes the search of the licensed premises by any peace officer at any time for any purpose; the removal therefrom of any evidence of any crime or other violation of any law; and the use thereof in any trial or hearing in regard thereto.

('88 Code, § 111.21)

§ 111.22 APPLICATION; ISSUANCE.

Subject to the limitations and restrictions described herein, city licenses shall be originally issued by the City ABC Administrator and renewed by him upon the expiration thereof upon receipt of the following documents and fees more than 30 days prior to the effective date of an original license and more than 15 days prior to the expiration date of any license to be renewed:

(A) A written application therefor with the truth of the information, statements and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of an application shall be prescribed by regulation of the City ABC Administrator; however, provision for the

following information, statements and representations shall and must be included therein:

(1) All information required by KRS 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the search of the licensed premises by any peace officer at any time for any purpose, the removal therefrom of any evidence of any crime or other violation of any law and the use thereof in any trial or hearing in regard thereto.

(3) The names, addresses, photographs and fingerprints of the applicant and all shareholders, officers, agents, servants and employees thereof.

(B) The approval of the applicant, the application and the premises described therein by the City ABC Administrator.

(C) Documentary evidence of a valid state license which corresponds to the city license for which the application is being made.

(D) The applicable fee, paid in cash or by certified or cashier's check, for the city license which is the subject of the application.

('88 Code, § 111.22) (Ord. 2001-05, passed 8-29-01)

§ 111.23 APPROVAL OF APPLICATION.

Within 30 days of the date of the application for an original city license and 15 days of the date of an application for renewal of a city license, the City ABC Administrator shall, by mail or personal delivery thereof, notify the applicant, in writing, of either the approval thereof or the

disapproval thereof and a hearing in regard thereto.

('88 Code, § 111.23)

§ 111.24 DENIAL OF APPLICATION.

As is similarly set forth in KRS 243.450, the City ABC Administrator shall not approve any application for a city license if:

(A) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(B) The applicant and/or any shareholder, officer, agent, servant or employee thereof has caused, permitted or engaged in any act for which the revocation of a state or city license is authorized;

(C) The applicant and/or any shareholder, officer, agent, servant or employee thereof had a state license or city license which was revoked within two years of the date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during the time;

(D) Any statement or representation in the application is false; or

(E) In the exercise of sound discretion, the City ABC Administrator determines any cause or reason for refusing to approve an application reasonably related to the purpose and objective of this chapter and the state laws and regulations of the State Alcoholic Beverage Control Board. Among those factors that the City ABC Administrator shall consider in the exercise of his discretion are: public sentiment in the area, number of licensed outlets in the area, potential for future growth, type of area involved, type of

transportation available and financial potential of the area.

('88 Code, § 111.24)

§ 111.25 TRANSFER OF LICENSE.

A city licensee shall not assign or transfer any city license to any other person or premises unless that person and/or premises complies with all of the provisions of this chapter, the transfer of the license is approved by the City ABC Administrator and the transfer of the state license to which the city license corresponds is approved by the state. A transfer fee of \$10 shall be paid to the city for the transfer of the city license.

('88 Code, § 111.25) Penalty, see § 111.99

§ 111.26 GROCERY, GASOLINE SELLERS AND THE LIKE PROHIBITED FROM OBTAINING LICENSE.

(A) As prohibited in KRS 243.280, no city license shall be issued to sell malt beverages at retail within or upon any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted unless there is continuously maintained an inventory on the premises for sale at retail of not less than \$5,000 of food, groceries, and related products valued at cost.

(B) No city license shall be issued to sell distilled spirits or wine at retail by the drink or package from any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline or lubricating oil.

('88 Code, § 111.26)

SALE OF ALCOHOLIC BEVERAGES**§ 111.40 HOURS.**

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, the times and hours during which distilled spirits, wine and malt beverages may be sold at retail in the city are hereby established to be the hours after 6:00 a.m. and before 2:30 a.m. prevailing time on any day except Sunday, and the hours after 1:00 p.m. and before 2:30 a.m. prevailing time on any Sunday. However, no distilled spirits or wine or malt beverages shall be sold at retail in the city during the hours the polls are open in the city on any election day.

(B) During the hours before 6:00 a.m. and after 2:30 a.m. prevailing time on any day except Sunday, and the hours after 2:30 a.m. and before 1:00 p.m. prevailing time on any Sunday, and the hours when any polls are open in the city on any election day, 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. During such times, all persons who have 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 city licenses or any supplements thereto as officers, agents or employees of the person to whom city license was issued. All other persons shall vacate the licensed premises and remove themselves therefrom during the times; however, any person upon the premises who purchased any alcoholic beverages by the drink from the licensee within 30 minutes prior to any such times may remain upon the premises for a period not to exceed 30 minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of the licensed premises is maintained in a manner previously approved in writing by the City 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 the premises are located within the approved department, and the approved department is continuously kept locked, physically separated and closed off from the remainder of 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.

('88 Code, § 111.40) Penalty, see § 111.99

§ 111.41 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

(A) At all times during which any person has a valid city license issued pursuant to the provisions hereof, that person shall fully comply with all of the rules, regulations, requirements and prohibitions set forth in this chapter.

(B) A city licensee shall comply fully with all of the provisions hereof and all of the rules and regulations of the City ABC Administrator in regard thereto; all provisions of the state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard to the licensed premises and the actions, business and transactions conducted thereon subsequent to the issuance of a state license therefor and prior to the expiration, revocation or suspension thereof which are hereby incorporated herein and made applicable to all city licenses corresponding thereto, the premises described therein, and the actions, business and transactions conducted

thereon; and the city licensee shall comply fully therewith.

('88 Code, § 111.41) Penalty, see § 111.99

§ 111.42 MAINTENANCE OF STATE LICENSE.

A city licensee shall maintain the state license to which the city license corresponds and fully comply with all state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto.

('88 Code, § 111.42) Penalty, see § 111.99

§ 111.43 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

As required by KRS 244.083, a city licensee who has a valid city retail distilled spirits, wine or malt beverage license shall cause to be displayed in a conspicuous and prominent place on the licensed premises each of the following documents so that they may be seen and observed by all persons entering the licensed premises:

(A) A sign or placard at least eight inches by 11 inches in size with the following message printed or displayed thereon in 30 point or larger type:

"Persons under the age of twenty-one (21) years are subject to a fine up to \$500 if they:

(1) Enter licensed premises to buy or have served or delivered to them any alcoholic beverages; or

(2) Possess, purchase or attempt to purchase any alcoholic beverages; or

(3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages."

(B) All valid city licenses issued therefor and the state licenses to which they correspond. The failure to so display the licenses shall be prima facie evidence that no valid licenses have been issued or exist and all actions, business and transactions authorized thereby conducted on the premises are illegal and in violation of the provisions hereof and the state statutes and regulations of the State Alcoholic Beverage Control Board in regard thereto.

('88 Code, § 111.43) Penalty, see § 111.99

Statutory reference:

For provisions concerning the display of state license required, see KRS 243.620, 244.270 and 244.360

§ 111.44 CRIMINAL CONDUCT ON PREMISES PROHIBITED.

A city licensee shall not cause, permit or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime or other violation of any law, rule or regulation of any governmental agency having jurisdiction thereof or any officer or agency thereof.

('88 Code, § 111.44) Penalty, see § 111.99

§ 111.45 CONDUCTING BUSINESS WITH MINOR.

As prohibited by KRS 244.080 and 244.085, no person shall cause, permit, encourage, or engage in any of the following actions in the city:

(A) The possession or consumption of any alcoholic beverages by any person under 21 years of age in or upon any licensed premises or public places; and

(B) The misrepresentation of the name, address, age or other identification of any person

under 21 years of age for the purpose of obtaining alcoholic beverages.

('88 Code, § 111.45) Penalty, see § 111.99

§ 111.46 ILLEGAL SEXUAL CONDUCT; EXPOSURE OF HUMAN BODY.

No person shall cause, permit, encourage or engage in any of the following activities or display still or motion pictures thereof on licensed premises:

(A) Sexual conduct, as defined in KRS 531.010 (4).

(B) Any acts, simulated acts, exhibitions, representations, depictions or descriptions of:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;

(3) Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal;

(4) Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function; or

(5) Flagellation, mutilation or torture for purpose of sexual arousal, gratification, or abuse.

(C) The appearance, display, depiction of:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks

and female breast below a point above the top of the areola; or

(2) Human male genitals in a discernible turgid state even in completely and opaquely covered.

('88 Code, § 111.46) (Ord. 2000-3, passed 4-17-00) Penalty, see § 111.99

§ 111.47 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

(A) A city licensee who has a valid city wholesale or retail distilled spirits, wine or malt beverage license must conduct the actions, business and transactions authorized thereby upon the licensed premises.

(B) When no actions, business or transactions are conducted thereon for a period of 90 consecutive calendar days, the city license therefor shall become null and void and revoked by the City Administrator unless:

(1) The city licensee is unable to continue in business at the premises for which a license is issued due to an act of God; casualty; the acquisition of the premises by any federal, state, city, or other governmental agency under power of eminent domain; acquisition of any private corporation through its power of eminent domain granted to it, whether the acquisition is voluntary or involuntary; or loss of lease through failure of the landlord to renew the existing lease; and

(2) Prior to the discontinuance of business at the licensed premises or immediately thereupon if it is due to an act of God, the city licensee delivers to the City ABC Administrator a written statement signed by the city licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the

licensed premises for any of the causes or reasons described herein.

('88 Code, § 111.47)

ADMINISTRATION AND ENFORCEMENT

§ 111.60 RIGHT OF ENTRY; SEARCH AND SEIZURE.

A city licensee shall permit the entry and search of the licensed premises by any peace officer at any time for any purpose, and the seizure and removal therefrom of any evidence of any crime or other violation of law and the use thereof in any trial or hearing in regard thereto.

('88 Code, § 111.61)

Cross-reference:

Alcoholic Beverage Control Administrator, see § 31.38

§ 111.61 SUSPENSION, REVOCATION OF LICENSE.

(A) Pursuant to the procedure set forth in KRS 243.480 through 243.590, city licenses may be either revoked or suspended by the City ABC Administrator upon the occurrence of:

(1) Any violation of the provisions of this chapter or any other alcoholic beverage control ordinance of the city;

(2) Any violation of any provision of state law in regard to alcoholic beverages or the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto; or

(3) Any other cause, reason or circumstance for which a state license may be revoked or suspended by the Board.

(B) However, city licenses must be revoked by the City ABC Administrator upon the occurrence of any cause or circumstance which requires revocation of state licenses pursuant to KRS 243.500 or the revocation of a state license to which a city license corresponds. Further, with the approval of the City ABC Administrator, a licensee may, as an alternative and in lieu of part or all of the days of any suspension period, pay the following sums to the city as set forth in KRS 243.480:

<u>Licensees</u>	<u>Fee Per Day</u>
Distillers	\$1,000
Rectifiers	\$1,000
Vintners	\$1,000
Brewers	\$1,000
Blenders	\$1,000
Wholesale liquor licensees	\$400
Wholesale beer licensees	\$400
Retail drink liquor licensees	\$50
Retail package liquor licensees	\$50
Retail beer licensees	\$50
All remaining licensees	\$50

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City ABC Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance, or occurrence

and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard thereon. The hearing thereon shall be conducted by the City ABC Administrator in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City ABC Administrator. The City ABC Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusion of the hearing, the City ABC Administrator shall issue a written decision in regard thereto and mail a certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail. ('88 Code, § 111.62) (Ord. 2001-05, passed 8-29-01)

§ 111.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof in a court of competent jurisdiction, be sentenced to pay a fine for each offense or violation of no more than \$500.

(B) Any person found to be in violation of § 111.02 shall be guilty of a misdemeanor and shall be fined not more than \$300 or be imprisoned for not more than 90 days, or both. (Ord. 1987-2, passed 2-18-87)

(C) Any person who violates the distillers license fee provision of § 111.20 shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990 (2), be sentenced to pay a fine of not less than \$100 nor more than \$200, or sentenced to imprisonment

for no more than six months, or both for the first offense. For the second offense, the person shall be fined not less than \$200 nor more than \$500, or sentenced to imprisonment for no more than six months, or both. On the third and each subsequent offense, the person shall be sentenced to pay a fine of not less than \$500 nor more than \$5,000, or sentenced to imprisonment for not more than five years, or both.

(D) Any person who violates any provision of § 111.20 other than as discussed in division (B) above, or any provision of §§ 111.21 through 111.26, 111.40 through 111.42, 111.44 or 111.45 (A) shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990 (1) and 244.990 (1), be fined not less than \$100 nor more than \$200, or be imprisoned for no more than six months, or both for the first offense. On the second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$500, or be imprisoned for no more than six months, or both.

(E) Any person who violates any provision of § 111.43 shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990 (5), be fined not less than \$10 nor more than \$100.

(F) Any person who violates any provision of § 111.45 (B) shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990 (5) and (6), be fined not less than \$10 nor more than \$100 for misrepresentation of age. For use of a false, fraudulent or altered identification card, paper or other document to purchase, attempt to purchase, or otherwise obtain any alcoholic beverage, the person shall be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$500 for a first offense. For a second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$2,000.

('88 Code, § 111.99)

(G) Any violation of this chapter is hereby classified as a civil offense, pursuant to Chapter 41 and KRS 65.8808, and such classification is intended, and shall be construed, to provide an additional or supplemental means of obtaining compliance with the applicable code sections, and nothing contained herein or in Chapter 41 shall prohibit the enforcement of this chapter by any other means authorized by law.

(H) If a citation for a violation of this chapter is not contested by the person charged with the violation, the civil fine to be imposed for each offense shall be \$50 for the first offense, \$90 for the second offense, and \$210 for the third, and thereafter, offense.

(I) If a citation is contested and a hearing before the Code Enforcement Board is required, the maximum civil fine which may be imposed at the discretion of the Board shall be from \$20 to \$200 for the first offense, from \$60 to \$600 for the second offense, and from \$180 to \$1,800 for the third, and thereafter, offense.

(J) Each section of the ordinance violated shall be considered a separate fineable offense. If two or more sections of the ordinance are violated, the fines shall be cumulative and be enforced under the same citation. Each day a violation exists shall be considered a separate offense upon issuance of a separate citation.

(Ord. 1999-13, passed 8-17-99)

Cross-reference:

Code Enforcement Board, see Chapter 41

ORDINANCE 2004-17

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, PROVIDING FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AMENDING SECTION 111.47(B) OF THE CODE OF ORDINANCES RELATING TO REVOCATION OF LICENSES AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

BE IT ORDAINED BY THE CITY OF FORT MITCHELL, KENTUCKY:

WHEREAS, Kentucky Revised Statutes 244.290 was amended to allow cities of the fourth class such as Fort Mitchell, Kentucky, to establish hours and times in which distilled spirits and wine may be sold within their jurisdictional boundaries;

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;

WHEREAS, the city of Fort Mitchell, Kentucky desires to establish the hours that distilled spirits and wine may be sold, including Sundays, in compliance with KRS 244.290 and related statutory and case law;

WHEREAS, this Ordinance specifically replaces Section 111.40 and any other contradictory provisions currently in force in the Code of Ordinances of the City of Fort Mitchell, Kentucky

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Fort Mitchell, Kentucky as follows:

SECTION I

The existing Section 111.40 of the Code of Ordinances of the City of Fort Mitchell is hereby repealed in full and replaced in full as set forth in this Ordinance.

SECTION II

Pursuant to the authority of KRS 244.290 and KRS 244.480, no distilled spirits, wine, or malt beverages may be sold at retail, whether by the drink or by package, in the City between the hours of 2:30 a.m. and 6:00 a.m. of any day. On Sundays no distilled spirits, wine, or malt beverages may be sold at retail by the drink in the City between the hours of 2:30 a.m. and 1:00 p.m.; and no distilled spirits, wine, or malt beverages may be sold at retail by the package on Sunday between the hours of 2:30 a.m. and 11:00 a.m. In addition, no distilled spirits, wine, or malt beverages may be sold at retail in the City during the hours when any polls

are open in the City on any election day.

SECTION III

During the restricted hours set forth in Section II, 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; however, any person upon the premises who purchased any alcoholic beverages by the drink from the licensee within 30 minutes prior to any such times may remain upon the premises for a period not to exceed 30 minutes thereafter for the sole purpose of the consumption of the drink purchased.

SECTION IV

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 kept locked, closed off and separated from the remainder of 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.

SECTION V

All retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, whether by the drink or by package, according to the terms of their individual license, during the hours of 6:00 a.m. to 2:30 a.m. the following day, on every day except for Sundays, and except for any hours when any polls are open in the City on any election day. All retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, by the drink, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. All retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within

the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, by package, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 11:00 a.m. on Sundays and 2:30 a.m. on Mondays.

SECTION VI

Penalties shall be enforced pursuant to applicable sections of the Code of Ordinances of Fort Mitchell, Kentucky.

SECTION VII

The introductory paragraph of Section 111.47(B) of the Code of Ordinances of the City of Fort Mitchell, Kentucky is hereby amended to read in full as follows:

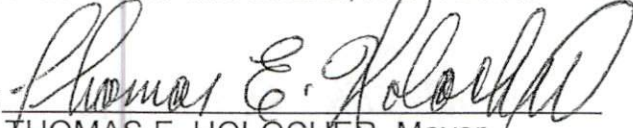
(B) When no actions, business or transactions are conducted thereon for a period of 90 consecutive calendar days, the City license therefore shall become null and void and revoked by the City ABC Administrator unless:

SECTION VIII


This Ordinance shall be published by summary.

CITY OF FORT MITCHELL, KENTUCKY

BY:


THOMAS E. HOLOCHER, Mayor

ATTEST:


Linda Coburn, City Clerk

DATE OF FIRST READING: October 4, 2004

DATE OF SECOND READING AND ENACTMENT: October 18, 2004

DATE OF PUBLICATION: 10-22-04

ALCOHOLIC
BEVERAGE CONTROL
RECEIVED
2005 DEC 22 A 10:58

THE CINCINNATI ENQUIRER
THE CINCINNATI POST
THE KENTUCKY POST

312 ELM STREET
CINCINNATI, OHIO 45202-2739
(513) 721-2700

AFFIDAVIT

(CASE NUMBER) LINDA COBU
(CAPTION COPY) ORD. # 2004-17
(QUOTED COST) \$147.41
(AD #) 49071
(ORDER #) *****

TITLE AND SUMMARY OF ORDINANCE 2004-17

TITLE
AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, PROVIDING FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AMENDING SECTION 111.47 (B) OF THE CODE OF ORDINANCES RELATING TO REVOCATION OF LICENSES AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

SUMMARY

Ordinance 2004-17 establishes the hours that distilled spirits, wine and malt beverages may be sold at retail within the city limits of the City of Fort Mitchell, Kentucky, by specifically repealing and replacing Section 111.40; the ordinance allows all retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the City to sell wine, spirits, and malt beverages, whether by the drink or by package, during the hours of 6:00 a.m. to 2:30 a.m. on every day except for Sunday, and except for any hours when any polls are open in the City on any election day. The Ordinance authorizes such retail sellers to sell wine, spirits, and malt beverages by the drink, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays and between 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. The Ordinance authorizes such retail sellers to sell wine, spirits, and malt beverages by package, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays and between 11:00 a.m. on Sundays and 2:30 a.m. on Mondays. The Ordinance 2004-17 amends Section 111.47 (B) to allow the City ABC Administrator to revoke a license in certain instances. Ordinance 2004-17 supersedes and repeals any ordinances or parts thereof which are in conflict with it and orders that the ordinance be published by summary. The full text of Ordinance 2004-17 is available for examination in the office of the City Clerk of the City of Fort Mitchell, Kentucky, in the Fort Mitchell Municipal Building, Dixie Highway and Highland Avenue, Fort Mitchell, Kentucky, 41017. CERTIFICATION. I hereby certify that Ordinance 2004-17 was duly executed by the City of Fort Mitchell, Kentucky, at a meeting on Oct. 18, 2004; and that the foregoing summary of prepared by Robert C. Ziegler, attorney for the City of Fort Mitchell, Kentucky, duly licensed to practice in the Commonwealth of Kentucky. CITY OF FORT MITCHELL, KENTUCKY BY: Thomas E. Holocher, Mayor, ATTEST: Linda Coburn, City Clerk. Date of First Reading: 10-4-04. Date of Second Reading and Enactment: 10-18-04.

STATE OF OHIO, SS.
HAMILTON COUNTY,

PERSONALLY APPEARED BEFORE ME,

A NOTARY PUBLIC, IN AND FOR HAMILTON

COUNTY, OHIO *Barbara Johnson*

WHO, BEING DULY SWORN, SAYS THAT THE

ANNEXED ADVERTISEMENT WAS PUBLISHED

IN THE

KENTUCKY POST

DAILY NEWSPAPERS 1 TIMES TO WIT:

10/22/04

Barbara Johnson
AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME THIS

28 DAY OF *Oct* 2004



Doris Thomas
NOTARY PUBLIC

DORIS THOMAS
Notary Public, State of Ohio
My Commission Expires Jan. 23, 2007



A WORLD OF DIFFERENT VOICES
WHERE FREEDOM SPEAKS

TITLE AND SUMMARY OF ORDINANCE 2004-17

TITLE

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, PROVIDING FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AMENDING SECTION 111.47(B) OF THE CODE OF ORDINANCES RELATING TO REVOCATION OF LICENSES AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

SUMMARY

Ordinance 2004-17 establishes the hours that distilled spirits, wine and malt beverages may be sold at retail within the city limits of the City of Fort Mitchell, Kentucky by specifically repealing and replacing Section 111.40; the Ordinance allows all retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the City to sell wine, spirits, and malt beverages, whether by the drink or by package, during the hours of 6:00 a.m. to 2:30 a.m. on every day except for Sunday, and except for any hours when any polls are open in the City on any election day. The Ordinance authorizes such retail sellers to sell wine, spirits, and malt beverages by the drink, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays and between 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. The Ordinance authorizes such retail sellers to sell wine, spirits, and malt beverages by package, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays and between 11:00 a.m. on Sundays and 2:30 a.m. on Mondays.

The Ordinance 2004-17 amends Section 111.47(B) to allow the City ABC Administrator to revoke a license in certain instances.

Ordinance 2004-17 supersedes and repeals any ordinances or parts thereof which are in conflict with it and orders that the ordinance be published by summary.

The full text of Ordinance 2004-17 is available for examination in the office of the City Clerk of the City of Fort Mitchell, Kentucky, in the Fort Mitchell Municipal Building, Dixie Highway and Highland Avenue, Fort Mitchell, Kentucky, 41017.

CERTIFICATION

I hereby certify that Ordinance 2004-17 was duly executed by the City of Fort Mitchell, Kentucky, at a meeting on Oct. 18, 2004; and that the foregoing summary of

prepared by Robert C. Ziegler, attorney for the City of Fort Mitchell, Kentucky, duly licensed to practice in the Commonwealth of Kentucky.

CITY OF FORT MITCHELL, KENTUCKY

BY: Thomas E. Holocher
THOMAS E. HOLOCHER, Mayor

ATTEST: Linda Coburn
Linda Coburn, City Clerk

DATE OF FIRST READING: 10-4-04
DATE OF SECOND READING AND ENACTMENT: 10-18-04
DATE OF PUBLICATION: 10-22-04

H:\FT-MIT\ordinances\Title-Sum 2004\Title-Sum 2004-17 Hours of Sale of Alcoholic Beverages2.wpd

ALCOHOLIC BEVERAGE CONTROL

2005 DEC 22 A 10:58

RECEIVED

ORDINANCE 2004-17

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, PROVIDING FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AMENDING SECTION 111.47(B) OF THE CODE OF ORDINANCES RELATING TO REVOCATION OF LICENSES AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

BE IT ORDAINED BY THE CITY OF FORT MITCHELL, KENTUCKY:

WHEREAS, Kentucky Revised Statutes 244.290 was amended to allow cities of the fourth class such as Fort Mitchell, Kentucky, to establish hours and times in which distilled spirits and wine may be sold within their jurisdictional boundaries;

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;

WHEREAS, the city of Fort Mitchell, Kentucky desires to establish the hours that distilled spirits and wine may be sold, including Sundays, in compliance with KRS 244.290 and related statutory and case law;

WHEREAS, this Ordinance specifically replaces Section 111.40 and any other contradictory provisions currently in force in the Code of Ordinances of the City of Fort Mitchell, Kentucky

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Fort Mitchell, Kentucky as follows:

SECTION I

The existing Section 111.40 of the Code of Ordinances of the City of Fort Mitchell is hereby repealed in full and replaced in full as set forth in this Ordinance.

SECTION II

Pursuant to the authority of KRS 244.290 and KRS 244.480, no distilled spirits, wine, or malt beverages may be sold at retail, whether by the drink or by package, in the City between the hours of 2:30 a.m. and 6:00 a.m. of any day. On Sundays no distilled spirits, wine, or malt beverages may be sold at retail by the drink in the City between the hours of 2:30 a.m. and 1:00 p.m.; and no distilled spirits, wine, or malt beverages may be sold at retail by the package on Sunday between the hours of 2:30 a.m. and 11:00 a.m. In addition, no distilled spirits, wine, or malt beverages may be sold at retail in the City during the hours when any polls

are open in the City on any election day.

SECTION III

During the restricted hours set forth in Section II, 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; however, any person upon the premises who purchased any alcoholic beverages by the drink from the licensee within 30 minutes prior to any such times may remain upon the premises for a period not to exceed 30 minutes thereafter for the sole purpose of the consumption of the drink purchased.

SECTION IV

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 kept locked, closed off and separated from the remainder of 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.

SECTION V

All retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, whether by the drink or by package, according to the terms of their individual license, during the hours of 6:00 a.m. to 2:30 a.m. the following day, on every day except for Sundays, and except for any hours when any polls are open in the City on any election day. All retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, by the drink, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. All retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within

the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, by package, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 11:00 a.m. on Sundays and 2:30 a.m. on Mondays.

SECTION VI

Penalties shall be enforced pursuant to applicable sections of the Code of Ordinances of Fort Mitchell, Kentucky.

SECTION VII

The introductory paragraph of Section 111.47(B) of the Code of Ordinances of the City of Fort Mitchell, Kentucky is hereby amended to read in full as follows:

(B) When no actions, business or transactions are conducted thereon for a period of 90 consecutive calendar days, the City license therefore shall become null and void and revoked by the City ABC Administrator unless:

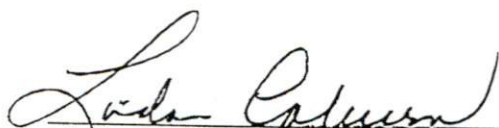
SECTION VIII

This Ordinance shall be published by summary.

CITY OF FORT MITCHELL, KENTUCKY

BY: 
THOMAS E. HOLOCHER, Mayor

ATTEST:


Linda Coburn, City Clerk

DATE OF FIRST READING: October 4, 2004

DATE OF SECOND READING AND ENACTMENT: October 18, 2004

DATE OF PUBLICATION: 10-22-04

TITLE AND SUMMARY OF ORDINANCE 2004-17**TITLE**

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, PROVIDING FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AMENDING SECTION 111.47(B) OF THE CODE OF ORDINANCES RELATING TO REVOCATION OF LICENSES AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

SUMMARY

Ordinance 2004-17 establishes the hours that distilled spirits, wine and malt beverages may be sold at retail within the city limits of the City of Fort Mitchell, Kentucky by specifically repealing and replacing Section 111.40; the Ordinance allows all retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the City to sell wine, spirits, and malt beverages, whether by the drink or by package, during the hours of 6:00 a.m. to 2:30 a.m. on every day except for Sunday, and except for any hours when any polls are open in the City on any election day. The Ordinance authorizes such retail sellers to sell wine, spirits, and malt beverages by the drink, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays and between 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. The Ordinance authorizes such retail sellers to sell wine, spirits, and malt beverages by package, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays and between 11:00 a.m. on Sundays and 2:30 a.m. on Mondays.

The Ordinance 2004-17 amends Section 111.47(B) to allow the City ABC Administrator to revoke a license in certain instances.

Ordinance 2004-17 supersedes and repeals any ordinances or parts thereof which are in conflict with it and orders that the ordinance be published by summary.

The full text of Ordinance 2004-17 is available for examination in the office of the City Clerk of the City of Fort Mitchell, Kentucky, in the Fort Mitchell Municipal Building, Dixie Highway and Highland Avenue, Fort Mitchell, Kentucky, 41017.

CERTIFICATION

I hereby certify that Ordinance 2004-17 was duly executed by the City of Fort Mitchell, Kentucky, at a meeting on Oct. 18, 2004; and that the foregoing summary of

prepared by Robert C. Ziegler, attorney for the City of Fort Mitchell, Kentucky, duly licensed to practice in the Commonwealth of Kentucky.

CITY OF FORT MITCHELL, KENTUCKY

BY: Thomas E. Holocher
THOMAS E. HOLOCHER, Mayor

ATTEST: Linda Coburn
Linda Coburn, City Clerk

DATE OF FIRST READING: 10-4-04
DATE OF SECOND READING AND ENACTMENT: 10-18-04
DATE OF PUBLICATION: 10-22-04

TITLE AND SUMMARY OF ORDINANCE 2004-17

TITLE

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, PROVIDING FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AMENDING SECTION 111.47(B) OF THE CODE OF ORDINANCES RELATING TO REVOCATION OF LICENSES AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

SUMMARY

Ordinance 2004-17 establishes the hours that distilled spirits, wine and malt beverages may be sold at retail within the city limits of the City of Fort Mitchell, Kentucky by specifically repealing and replacing Section 111.40; the Ordinance allows all retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the City to sell wine, spirits, and malt beverages, whether by the drink or by package, during the hours of 6:00 a.m. to 2:30 a.m. on every day except for Sunday, and except for any hours when any polls are open in the City on any election day. The Ordinance authorizes such retail sellers to sell wine, spirits, and malt beverages by the drink, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays and between 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. The Ordinance authorizes such retail sellers to sell wine, spirits, and malt beverages by package, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays and between 11:00 a.m. on Sundays and 2:30 a.m. on Mondays.

The Ordinance 2004-17 amends Section 111.47(B) to allow the City ABC Administrator to revoke a license in certain instances.

Ordinance 2004-17 supersedes and repeals any ordinances or parts thereof which are in conflict with it and orders that the ordinance be published by summary.

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prepared by Robert C. Ziegler, attorney for the City of Fort Mitchell, Kentucky, duly licensed to practice in the Commonwealth of Kentucky.

CITY OF FORT MITCHELL, KENTUCKY

BY: Thomas E. Holocher
THOMAS E. HOLOCHER, Mayor

ATTEST: Linda Coburn
Linda Coburn, City Clerk

DATE OF FIRST READING: 10-4-04
DATE OF SECOND READING AND ENACTMENT: 10-18-04
DATE OF PUBLICATION: 10-22-04

ORDINANCE 2004-17

AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, PROVIDING FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AMENDING SECTION 111.47(B) OF THE CODE OF ORDINANCES RELATING TO REVOCATION OF LICENSES AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

BE IT ORDAINED BY THE CITY OF FORT MITCHELL, KENTUCKY:

WHEREAS, Kentucky Revised Statutes 244.290 was amended to allow cities of the fourth class such as Fort Mitchell, Kentucky, to establish hours and times in which distilled spirits and wine may be sold within their jurisdictional boundaries;

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;

WHEREAS, the city of Fort Mitchell, Kentucky desires to establish the hours that distilled spirits and wine may be sold, including Sundays, in compliance with KRS 244.290 and related statutory and case law;

WHEREAS, this Ordinance specifically replaces Section 111.40 and any other contradictory provisions currently in force in the Code of Ordinances of the City of Fort Mitchell, Kentucky

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Fort Mitchell, Kentucky as follows:

SECTION I

The existing Section 111.40 of the Code of Ordinances of the City of Fort Mitchell is hereby repealed in full and replaced in full as set forth in this Ordinance.

SECTION II

Pursuant to the authority of KRS 244.290 and KRS 244.480, no distilled spirits, wine, or malt beverages may be sold at retail, whether by the drink or by package, in the City between the hours of 2:30 a.m. and 6:00 a.m. of any day. On Sundays no distilled spirits, wine, or malt beverages may be sold at retail by the drink in the City between the hours of 2:30 a.m. and 1:00 p.m.; and no distilled spirits, wine, or malt beverages may be sold at retail by the package on Sunday between the hours of 2:30 a.m. and 11:00 a.m. In addition, no distilled spirits, wine, or malt beverages may be sold at retail in the City during the hours when any polls

are open in the City on any election day.

SECTION III

During the restricted hours set forth in Section II, 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; however, any person upon the premises who purchased any alcoholic beverages by the drink from the licensee within 30 minutes prior to any such times may remain upon the premises for a period not to exceed 30 minutes thereafter for the sole purpose of the consumption of the drink purchased.

SECTION IV

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 kept locked, closed off and separated from the remainder of 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.

SECTION V

All retail sellers that hold a valid license for the sale of distilled spirits, wine, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, whether by the drink or by package, according to the terms of their individual license, during the hours of 6:00 a.m. to 2:30 a.m. the following day, on every day except for Sundays, and except for any hours when any polls are open in the City on any election day. All retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, by the drink, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. All retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within

the jurisdictional boundaries of the City, are hereby authorized to sell distilled spirits, wine, and malt beverages, by package, according to the terms of their individual license, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays; and between the hours of 11:00 a.m. on Sundays and 2:30 a.m. on Mondays.

SECTION VIII

This Ordinance shall be published by summary.

CITY OF FORT MITCHELL, KENTUCKY

BY: Thomas E. Holocher
THOMAS E. HOLOCHER, Mayor

ATTEST:

Linda Coburn
Linda Coburn, City Clerk

DATE OF FIRST READING: October 4, 2004
DATE OF SECOND READING AND ENACTMENT: October 18, 2004
DATE OF PUBLICATION: 10-22-04

(CAPTION COPY) ORD. # 2004-17
(QUOTED COST) \$147.41
(AD #) 49071
(ORDER #) *****

TITLE AND SUMMARY OF ORDINANCE 2004-17
TITLE
AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, PROVIDING FOR THE ESTABLISHMENT OF THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY; AMENDING SECTION 111.47 (B) OF THE CODE OF ORDINANCES RELATING TO REVOCATION OF LICENSES AND ORDERING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.

SUMMARY
Ordinance 2004-17 establishes the hours that distilled spirits, wine and malt beverages may be sold at retail within the city limits of the City of Fort Mitchell, Kentucky by specifically repealing and replacing Section 111.40; the ordinance allows all retail sellers that hold a valid license for the sale of wine, spirits, or malt beverages within the City to sell wine, spirits, and malt beverages, whether by the drink or by package, during the hours of 6:00 a.m. to 2:30 a.m. on every day except for Sunday, and except for any hours when any polls are open in the City on any election day. The Ordinance authorizes such retail sellers to sell wine, spirits, and malt beverages by the drink, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays and between 1:00 p.m. on Sundays and 2:30 a.m. on Mondays. The Ordinance authorizes such retail sellers to sell wine, spirits, and malt beverages by package, between the hours of 12:01 a.m. and 2:30 a.m. on Sundays and between 1:00 a.m. on Sundays and 2:30 a.m. on Mondays. The Ordinance 2004-17 amends Section 111.47 (B) to allow the City ABC Administrator to revoke a license in certain instances. Ordinance 2004-17 supercedes and repeals any ordinances or parts thereof which are in conflict with it and orders that the ordinance be published by summary. The full text of Ordinance 2004-17 is available for examination in the office of the City Clerk of the City of Fort Mitchell, Ken-

STATE OF OHIO, SS.
HAMILTON COUNTY,

PERSONALLY APPEARED BEFORE ME,
A NOTARY PUBLIC, IN AND FOR HAMILTON COUNTY, OHIO Rosanda Johnson...
WHO, BEING DULY SWORN, SAYS THAT THE ANNEXED ADVERTISEMENT WAS PUBLISHED IN THE KENTUCKY POST

DAILY NEWSPAPERS 1 TIMES TO WIT:

10/22/04

Rosanda Johnson
AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME THIS

28 DAY OF Oct 2004



CHAPTER 111: ALCOHOLIC BEVERAGES

Section

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- 111.02 Possession by minors on private property

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GENERAL PROVISIONS

§ 111.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) As used herein the words and phrases defined in KRS 241.01 and 243.010 have the meanings indicated therein.

(B) The following words and phrases have the meanings indicated:

(1) "BOARD." The State Alcoholic Beverage Control Board established pursuant to KRS 241.030.

(2) "CITY ABC ADMINISTRATOR." The person appointed to the office of Alcoholic Beverage Control Administrator created and established by the city pursuant to § 111.60.

(3) "CITY LICENSE." A license established and authorized pursuant to the terms hereof.

(4) "CITY LICENSEE." A person who has been issued a city license pursuant to the terms hereof.

(5) "PERSON." Any natural person, corporation, partnership, joint venture, or unincorporated association of persons or any combination thereof, and the shareholders, officers, agents, servants, and employees thereof.

(6) "PREMISES." The premises described in the city license issued pursuant to the terms hereof and the application therefor.

(7) "STATE LICENSE." A license authorized by KRS 243.030 to 243.680.

(8) "TRAFFIC IN ALCOHOLIC BEVERAGES." Any action, business, or transaction in regard to the production, storage, transportation, distribution, sale, delivery, and transfer of alcoholic beverages.

§ 111.02 POSSESSION BY MINORS ON PRIVATE PROPERTY.

No person being the owner, occupant, or otherwise having the care, custody, or control of any property located in the city shall knowingly allow any person under the age of 21 years to remain on such property while in the possession of any alcoholic beverage or while consuming any alcoholic beverage.

(Ord. 1987-2, passed 2-18-87) Penalty, see § 111.99

LICENSES

§ 111.20 CLASSIFICATION OF LICENSES; FEE SCHEDULE.

(A) For the privilege of causing, permitting, and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in the following schedule. The actions, business, and transactions authorized and permitted thereby and the expiration dates thereof shall be and are the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in the following schedule. The fees for such city licenses shall be the maximum allowed by law as indicated in the following schedule.

(B) No person shall cause, permit, or engage in any of the actions, business, or transactions authorized by such city and state

(B) However, the documents must be of the same color and designation as those of the state licenses to which the city licenses correspond and must:

(1) Comply with all of the provisions for state licenses required by KRS 243.440; and

(2) Contain a declaration that the license authorizes the search of the licensed premises by any peace officer at any time for any purpose; the removal therefrom of any evidence of any crime or other violation of any law; and the use thereof in any trial or hearing in regard thereto.

§ 111.22 APPLICATION; ISSUANCE.

Subject to the limitations and restrictions described herein, city licenses shall be originally issued by the City Clerk and renewed by him upon the expiration thereof upon receipt of the following documents and fees more than 30 days prior to the effective date of an original license and more than 15 days prior to the expiration date of any license to be renewed:

(A) A written application therefor with the truth of the information, statements, and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of such application shall be prescribed by regulation of the City ABC Administrator; however, provision for the following information, statements, and representations shall and must be included therein:

(1) All information required by KRS 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the search of the licensed premises by any peace officer at any time for any purpose, the removal therefrom of any evidence of any crime or other violation of any law; and the use thereof in any trial or hearing in regard thereto.

(3) The names, addresses, photographs, and fingerprints of the applicant and all shareholders, officers, agents, servants, and employees thereof.

(B) The approval of the applicant, the application, and the premises described therein by the City ABC Administrator.

(C) Documentary evidence of a valid state license which corresponds to the city license for which the application is being made.

(D) The applicable fee, paid in cash or by certified or cashier's check, for the city license which is the subject of the application.

§ 111.23 APPROVAL OF APPLICATION.

Within 30 days of the date of the application for an original city license and 15 days of the date of an application for renewal of a city license, the City ABC Administrator shall, by mail or personal delivery thereof, notify the applicant, in writing, of either the approval thereof or the disapproval thereof and a hearing in regard thereto.

§ 111.24 DENIAL OF APPLICATION.

As is similarly set forth in KRS 243.450, the City ABC Administrator shall not approve any application for a city license if:

(A) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(B) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted, or engaged in any act for which the revocation of a state or city license is authorized;

(C) The applicant and/or any shareholder, officer, agent, servant, or employee thereof had a state license or city license which was revoked within two years of the date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during such time;

(D) Any statement or representation in the application is false;
or

(E) In the exercise of sound discretion, the City ABC Administrator determines any cause or reason for refusing to approve an application reasonably related to the purpose and objective of this chapter and the state laws and regulations of the State Alcoholic Beverage Control Board. Among those factors that the City ABC Administrator shall consider in the exercise of his discretion are: public sentiment in the area; number of licensed outlets in the area; potential for future growth; type of area involved; type of transportation available; and financial potential of the area.

§ 111.25 TRANSFER OF LICENSE.

A city licensee shall not assign or transfer any city license to any other person or premises unless that person and/or premises complies with all of the provisions of this chapter; the transfer of the license is approved by the City ABC Administrator; and the transfer of the state license to which the city license corresponds is approved by the state. A transfer fee of \$10 shall be paid to the city for the transfer of the city license.
Penalty, see § 111.99

§ 111.26 PREMISES SELLING GROCERIES, GASOLINE, AND THE LIKE PROHIBITED FROM OBTAINING LICENSE.

(A) As prohibited in KRS 243.280, no city license shall be issued to sell malt beverages at retail within or upon any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted unless there is continuously maintained an inventory on the premises for sale at retail of not less than \$5,000 of food, groceries, and related products valued at cost.

(B) No city license shall be issued to sell distilled spirits or wine at retail by the drink or package from any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries, or gasoline or lubricating oil.

SALE OF ALCOHOLIC BEVERAGES

§ 111.40 HOURS.

(A) Pursuant to the authority of KRS 244.290 and KRS 244.480, the times and hours during which distilled spirits, wine, and malt beverages may be sold at retail in the city are hereby established to be the hours after 6:00 a.m. and before 2:30 a.m. prevailing time on any day except Sunday, and the hours after 1:00 p.m. and before 2:30 a.m. prevailing time on any Sunday. However, no distilled spirits or wine or malt beverages shall be sold at retail in the city during the hours the polls are open in the city on any election day.

(B) During the hours before 6:00 a.m. and after 2:30 a.m. prevailing time on any day except Sunday, and the hours after 2:30 a.m. and before 1:00 p.m. prevailing time on any Sunday, and the hours when any polls are open in the city on any election day, 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. 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 city license was issued. All other persons shall vacate the licensed premises and remove themselves therefrom during such times; however, any person upon the premises who purchased any alcoholic beverages by the drink from the licensee within 30 minutes prior to any such times may remain upon the premises for a period not to exceed 30 minutes thereafter for the sole purpose of the consumption of the drink purchased.

(C) If a separate department of such licensed premises is maintained in a manner previously approved in writing by the City 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 kept locked, physically separated, and closed off from the remainder of 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 § 111.99

§ 111.41 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

(A) At all times during which any person has a valid city license issued pursuant to the provisions hereof, that person shall fully comply with all of the rules, regulations, requirements, and prohibitions set forth in this chapter.

(B) A city licensee shall comply fully with all of the provisions hereof and all of the rules and regulations of the City ABC Administrator in regard thereto; all provisions of the state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard to the licensed premises and the actions, business, and transactions conducted thereon subsequent to the issuance of a state license therefor and prior to the expiration, revocation, or suspension thereof which are hereby incorporated herein and made applicable to all city licenses corresponding thereto, the premises described therein, and the actions, business, and transactions conducted thereon; and the city licensee shall comply fully therewith.

Penalty, see § 111.99

§ 111.42 MAINTENANCE OF STATE LICENSE.

A city licensee shall maintain the state license to which the city license corresponds and fully comply with all state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto.

Penalty, see § 111.99

§ 111.43 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

As required by KRS 244.083, a city licensee who has a valid city retail distilled spirits, wine, or malt beverage license shall cause to be displayed in a conspicuous and prominent place on the licensed premises each of the following documents so that they may be seen and observed by all persons entering the licensed premises:

(A) A sign or placard at least eight inches by 11 inches in size with the following message printed or displayed thereon in 30 point or larger type:

"Persons under the age of twenty-one (21) years are subject to a fine up to Five Hundred (\$500.00) Dollars if they:

a. Enter licensed premises to buy or have served or delivered to them any alcoholic beverages; or

b. Possess, purchase, or attempt to purchase any alcoholic beverages; or

c. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages."

(B) All valid city licenses issued therefor and the state licenses to which they correspond. The failure to so display such licenses shall be prima facie evidence that no such valid licenses have been issued or exist and all actions, business, and transactions authorized thereby conducted on such premises are illegal and in violation of the provisions hereof and the state statutes and regulations of the State Alcoholic Beverage Control Board in regard thereto.

Penalty, see § 111.99

Statutory reference:

Display of state license required, see KRS 243.620, 244.270, and 244.360

§ 111.44 CRIMINAL CONDUCT ON PREMISES PROHIBITED.

A city licensee shall not cause, permit, or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime or other violation of any law, rule, or regulation of any governmental agency having jurisdiction thereof or any officer or agency thereof.

Penalty, see § 111.99

§ 111.45 CONDUCTING BUSINESS WITH MINOR.

As prohibited by KRS 244.080 and 244.085, no person shall cause, permit, encourage, or engage in any of the following actions in the city:

(A) The possession or consumption of any alcoholic beverages by any person under 21 years of age in or upon any licensed premises or public places; and

(B) The misrepresentation of the name, address, age, or other identification of any person under 21 years of age for the purpose of obtaining alcoholic beverages.

Penalty, see § 111.99

§ 111.46 ILLEGAL SEXUAL CONDUCT, EXPOSURE OF HUMAN BODY.

No person shall cause, permit, encourage, or engage in any of the following activities or display still or motion pictures thereof on licensed premises:

(A) Sexual conduct as defined in KRS 531.010(4).

(B) The appearance of any human being, clothed or unclothed, in such a manner that any portion of the following body members are exposed to view:

- (1) The nipple of the female breast.
- (2) The female breast below the nipple.
- (3) The genitalia.
- (4) The pubic hair.
- (5) The anus.

Penalty, see § 111.99

§ 111.47 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

(A) A city licensee who has a valid city wholesale or retail distilled spirits, wine, or malt beverage license must conduct the actions, business, and transactions authorized thereby upon the licensed premises.

(B) When no such actions, business, or transactions are conducted thereon for a period of 90 consecutive calendar days, the city license therefor shall become null and void and revoked by the City Administrator unless:

(1) The city licensee is unable to continue in business at the premises for which a license is issued due to an act of God; casualty; the acquisition of the premises by any federal, state, city, or other governmental agency under power of eminent domain; acquisition of any private corporation through its power of eminent domain granted to it, whether such acquisition is voluntary or involuntary; or loss of lease through failure of the landlord to renew the existing lease; and

(2) Prior to the discontinuance of business at the licensed premises or immediately thereupon if such is due to an act of God, the city licensee delivers to the City ABC Administrator a written statement signed by the city licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the licensed premises for any of the causes or reasons described herein.

ADMINISTRATION AND ENFORCEMENT

§ 111.60 CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

For provisions concerning the City Alcoholic Beverage Control Administrator, see § 31.44.

§ 111.61 RIGHT OF ENTRY; SEARCH AND SEIZURE.

A city licensee shall permit the entry and search of the licensed premises by any peace officer at any time for any purpose, and the seizure and removal therefrom of any evidence of any crime or other violation of law and the use thereof in any trial or hearing in regard thereto.

§ 111.62 SUSPENSION, REVOCATION OF LICENSE.

(A) Pursuant to the procedure set forth in KRS 243.480 through 243.590, city licenses may be either revoked or suspended by the City ABC Administrator upon the occurrence of:

(1) Any violation of the provisions of this chapter or any other alcoholic beverage control ordinance of the city;

(2) Any violation of any provision of state law in regard to alcoholic beverages or the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto; or

(3) Any other cause, reason, or circumstance for which a state license may be revoked or suspended by the Board.

(B) However, city licenses must be revoked by the City ABC Administrator upon the occurrence of any cause or circumstance which requires revocation of state licenses pursuant to KRS 243.500 or the revocation of a state license to which a city license corresponds. Further, with the approval of the City ABC Administrator, a licensee may, as an alternative and in lieu of part or all of the days of any suspension period, pay the following sums to the city as set forth in KRS 243.480: distillers, rectifiers, vintners, brewers, and blenders: \$1000 per day; wholesale liquor licensees: \$400 per day; wholesale beer licensees: \$100 per day; retail drink liquor licensees: \$25 per day; retail package liquor licensees: \$25 per day; retail beer licensees: \$10 per day; and all remaining licensees: \$10 per day.

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City ABC Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance, or occurrence and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard thereon. The hearing thereon shall be conducted by the City ABC Administrator in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City ABC Administrator. The City ABC Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusion of the hearing, the City ABC Administrator shall issue a written decision

in regard thereto and mail a certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail.

§ 111.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof in a court of competent jurisdiction, be sentenced to pay a fine for each offense or violation of no more than \$500.

(B) Any person found to be in violation of § 111.02 shall be guilty of a misdemeanor and shall be fined not more than \$300 or be imprisoned for not more than 90 days, or both. (Ord. 1987-2, passed 2-18-87)

(C) Any person who violates the distillers license fee provision of § 111.20 shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990(2), be sentenced to pay a fine of not less than \$100 nor more than \$200, or sentenced to imprisonment for no more than six months, or both for the first offense. For the second offense, the person shall be fined not less than \$200 nor more than \$500, or sentenced to imprisonment for no more than six months, or both. On the third and each subsequent offense, the person shall be sentenced to pay a fine of not less than \$500 nor more than \$5,000, or sentenced to imprisonment for not more than five years, or both.

(D) Any person who violates any provision of § 111.20 other than as discussed in division (B) above, or any provision of §§ 111.21 through 111.26, 111.40 through 111.42, 111.44, or 111.45(A) shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990(1) and 244.990(1), be fined not less than \$100 nor more than \$200, or be imprisoned for no more than six months, or both for the first offense. On the second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$500, or be imprisoned for no more than six months, or both.

(E) Any person who violates any provision of § 111.43 shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990(5), be fined not less than \$10 nor more than \$100.

(F) Any person who violates any provision of § 111.45(B) shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990(5) and (6), be fined not less than \$10 nor more than \$100 for misrepresentation of age. For use of a false, fraudulent, or altered identification card, paper, or other document to purchase, attempt to purchase, or otherwise obtain any alcoholic beverage, the person shall be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$500 for a first offense. For a second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$2,000.