

CITY OF LEXINGTON ALCOHOL BEVERAGES ORDINANCE

Chapter 3 - ALCOHOLIC BEVERAGES^[1]

Footnotes:

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Editor's note— Section 1 of Ord. No. 134-79, adopted May 31, 1979, repealed §§ 3-2—3-19, 3-22—3-25, derived from the original codification as amended by Ord. No. 3973, §§ 1, 2, adopted Dec. 13, 1959; Ord. No. 74-67, § 1, adopted Apr. 13, 1967; and Ord. No. 134-68, § 1, adopted June 15, 1978. Section 2 of Ord. No. 134-79 enacted new §§ 3-2—3-19, 3-22—3-25.

State Law reference— Alcoholic beverages, KRS ch. 241 et seq.

Sec. 3-1. - Definitions.

The words and terms used in this chapter specifying the kinds of licenses shall have the same meanings as in those parts of the Kentucky Revised Statutes applying to the licenses provided herein.

Sec. 3-2. - Office of urban county alcoholic beverage control administrator—Qualifications.

There is created an office of urban county alcoholic beverage control administrator. The urban county administrator and such investigators and clerks as are deemed necessary for the proper conduct of his office shall be appointed by the mayor. The urban county administrator shall take the oath prescribed in section 228 of the Kentucky Constitution before entering upon such duties.

(Ord. No. 134-79, § 2, 5-31-79)

Cross reference— Appointment, salary, benefits for alcoholic beverage control administrator, § 22-47.

Sec. 3-3. - Same—Powers.

- (a) The urban county administrator and his investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the urban county government.
- (b) The urban county administrator, and his investigators, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-4. - Same—Bond.

- (a) Before entering upon his duties, the urban county administrator shall execute a bond with a good corporate security in the penal sum of not less than one thousand dollars (\$1,000.00).
- (b) The urban county administrator may require any employee under his supervision to execute a similar bond in such penal sum as he deems necessary.
- (c) The cost of the bonds given under this section shall be borne by the urban county government.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-5. - Same—Function.

The functions of the urban county administrator shall be the same with respect to urban county licenses and regulations as the functions of the alcoholic beverage control board with respect to state licenses and regulations, except that no regulations adopted by the urban county administrator may be less stringent than the statutes relating to alcoholic beverage control or than the regulations of the board.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 1, 4-13-00)

Sec. 3-6. - Same—Appeals.

Appeals from the orders of the urban county administrator may be taken as prescribed by law.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-7. - License applications—Procedure.

- (a) Each person, before applying to the state alcoholic beverage control board under the provisions of KRS chapter 243, to do business in the urban county shall first apply to and obtain approval of the urban county administrator for an urban county license to do business; and no person shall engage in any business for which a license is provided under this section without first obtaining such license. Such licenses shall conform in their provisions and the business authorized to kindred state licenses.
- (b) Such application for an urban county license shall be written and verified, shall contain the information required by the provisions of KRS 243.390, and shall otherwise comply with all provisions of law.
- (c) The urban county administrator shall either approve or disapprove of any such application in accordance with the law.
- (d) Upon approval of any such application, the applicant shall pay the amount of the license fee provided in this chapter, within the time prescribed in this chapter, to the commissioner of finance, who shall issue the license.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-8. - Same—Transfer or assignment.

The urban county administrator may permit the transfer or assignment of any license issued under this chapter to another person or premises under the same terms and conditions as provided by statute.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-9. - Distilled spirits and wine—Special private club license.

- (a) Any applicant for a special private club license shall be required, as a condition precedent to obtaining such a license, to show to the satisfaction of the urban county administrator that it is a nonprofit social, fraternal, military or political organization or club, which for more than one (1) year prior to the date of filing such application has maintained and operated a club room or rooms within the urban county from which the general public is excluded.
- (b) This license shall authorize the licensee to exercise the privilege of a malt beverage or a distilled spirits and wine retail drink licensee, or both, at the designated premises if the general public is excluded. All

restrictions and prohibitions applying to a malt beverage and a distilled spirits and wine retail drink licensee shall apply to a special private club licensee.

- (c) A special private club license may be issued by the urban county administrator, the fee for which shall be three hundred dollars (\$300.00) per annum.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 2, 4-13-00)

Sec. 3-9.1. - Reserved.

Editor's note— Ord. No. 200-2007, § 1, adopted Sept. 13, 2007, deleted § 3-9.1 in its entirety. Former § 3-9.1 pertained to distilled spirits and wine—hotels, motels, convention centers, restaurants, commercial airports license for Sunday sale and derived from Ord. No. 127-86, § 5, adopted July 17, 1986.

Sec. 3-9.2. - Reserved.

Editor's note— Ord. No. 200-2007, § 1, adopted Sept. 13, 2007, deleted § 3-9.2 in its entirety. Former § 3-9.2 pertained to Sunday malt beverage retailer's license for hotels, motels, convention centers, restaurants, and commercial airports and derived from Ord. No. 6-87, § 1, adopted Jan. 8, 1987; Ord. No. 291-95, § 1, adopted Dec. 7, 1995; and Ord. No. 32-2007, § 1, adopted Feb. 8, 2007.

Sec. 3-9.3. - Reserved.

Editor's note— Ord. No. 200-2007, § 1, adopted Sept. 13, 2007, deleted § 3-9.3 in its entirety. Former § 3-9.3 pertained to extended hours supplemental license for convention centers, race tracks and commercial airports and derived from Ord. No. 4-87, § 1, adopted Jan. 8, 1987; and Ord. No. 95-2004, § 2, adopted May 13, 2004.

Sec. 3-10. - License revocation or suspension—Powers of board.

The urban county administrator shall have the same powers and duties with respect to suspension and revocation of licenses granted under this chapter as the state alcoholic beverage control board has with respect to licenses granted under KRS chapter 243 in addition to any other powers and duties granted to or imposed upon him by ordinance.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-11. - Same—Effect.

Upon revocation of any license issued under this chapter, the licensee shall not thereafter be granted a license under this chapter within two (2) years next after such revocation; and on any such revocation, the urban county administrator, in his discretion, may order that no other license be issued to anyone to conduct in the same premises any business required to be licensed by this chapter within two (2) years next after the revocation of such license.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-12. - Alcoholic beverage license fees.

The following kinds of alcoholic beverage licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Distiller's license, per annum \$ 500.00
- (2) Rectifier's license, per annum 3,000.00
- (3) Wholesaler's distiller's spirit and wine license, per annum 3,000.00
- (4) Quota retail package license, per annum 1,000.00
- (5) Quota retail drink license, per annum 1,000.00
- (6) Special temporary license, per event 166.66
- (7) Nonquota type 1 retail drink license, per annum 2,000.00
- (8) Nonquota type 2 retail drink license, per annum 1,000.00
- (9) Nonquota type 3 retail drink license, per annum 300.00
- (10) Distilled spirits and wine special temporary auction license, per event 200.00
- (11) Special Sunday retail drink license, per annum 300.00
- (12) Extended hours supplemental license, per annum 2,000.00
- (13) Caterer's license, per annum 800.00
- (14) Bottling house or bottling house storage license, per annum 1,000.00
- (15) Limited restaurant license, per annum 1,200.00
- (16) Limited golf course license, per annum 1,200.00

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 127-86, § 5, 7-17-86; Ord. No. 86-2000, § 3, 4-13-00; Ord. No. 26-2004, § 1, 2-5-04; Ord. No. 85-2013, § 1, 7-9-13)

Note— See the editor's note to § 3-9.1.

Sec. 3-13. - Malt beverage license fees.

The following kinds of malt beverage licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Brewer's license per annum \$500.00
- (2) Microbrewery license per annum 500.00
- (3) Malt beverage distributor's license, per annum 400.00
- (4) Nonquota retail malt beverage package license, per annum 200.00
- (5) Nonquota type 4 retail malt beverage drink license, per annum 200.00
- (6) Malt beverage brew-on-premises license, per annum 100.00

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 6-87, § 1, 1-8-87; Ord. No. 86-2000, § 4, 4-13-00; Ord. No. 26-2004, § 2, 2-5-04; Ord. No. 85-2013, § 2, 7-9-13)

Sec. 3-13.1. - Reserved.

Editor's note— Ord. No. 85-2013, § 3, adopted July 9, 2013, repealed § 3-13.1 which pertained to the special convention center, extended hours, and horse race track license and derived from Ord. No. 65-85, § 1, adopted April 4, 1985; Ord. No. 4-87, § 1, adopted Jan. 8, 1987; Ord. No. 86-2000, § 5, adopted April 13, 2000; and Ord. No. 26-2004, § 3, adopted Feb. 5, 2004.

Sec. 3-14. - License period; time of payment; delinquency.

- (a) The license period for all forms of alcoholic beverage licenses shall conform to the period covered by kindred licenses issued by the state; and such licenses, other than special temporary licenses, when issued, shall be valid for a period of no more than one (1) year. All licenses shall expire on the thirtieth day of June of each year until a renewal system with staggered dates has been implemented by the urban county administrator.
- (b) The annual license renewal fees provided in this chapter shall be paid on or before the tenth day of July of each year or, after the implementation of a renewal system with staggered dates, within ten (10) days after the expiration date and any person holding any form of such license who fails to pay the license fees by said date shall be subject to a revocation of such license and in addition shall pay a penalty of ten (10) percent of the amount of the annual license renewal fee if the license is subsequently renewed.
- (c) The license fees of any person entering upon any of the businesses required by this chapter to be licensed shall be due and payable at the time of their entering upon any of such businesses and if not paid within ten (10) days after they become due shall be deemed delinquent and shall have added thereto a penalty of ten (10) percent of the license tax.
- (d) Persons delinquent in their payment of any license fees imposed upon them by this chapter shall be proceeded against and subjected to revocation of license and to additional penalty as provided in section 3-26.
- (e) Until a renewal system with staggered dates is implemented, when any person applies for a license authorized to be issued under this chapter after July 1 of any year or for a new license after the implementation of a renewal system with staggered dates, he shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half ($\frac{1}{2}$) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 6, 4-13-00)

Sec. 3-15. - Disposition of license fees.

All money derived from the collection of license fees or the forfeiture of bonds, pursuant to this chapter, shall be paid into and become part of the general fund of the urban county government.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-16. - License to contain certain information.

There shall be stamped or printed on the face of each license issued pursuant to this chapter the type of license issued, such as "Retail Beer," "Retail Package Liquor" and so forth, together with the words "License period shall be July 1 through June 30," and the year to be covered by such license, or, in the case of special temporary licenses and after the implementation of a renewal system with staggered dates, the precise dates covered by the license.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 7, 4-13-00)

Sec. 3-17. - License to be displayed.

- (a) Before commencing or doing any business for the time for which a license has been issued, all licenses issued under this chapter shall be posted and at all times displayed in a conspicuous place in the room or principal room where the business is carried on, so that all persons visiting the place may readily see the license.
- (b) No licensee shall post the license or permit it to be posted upon premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.
- (c) Whenever a license is lost or destroyed, a duplicate license shall be issued upon proof of loss satisfactory to the urban county administrator and upon the payment of a fee of twenty-five dollars (\$25.00).

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 8, 4-13-00)

Sec. 3-18. - Sales only at place specified in license.

No license issued pursuant to this chapter shall authorize the sale of alcoholic beverages of any kind at more than one (1) place, which shall be specified in the license; and a separate license must be taken out for each place in which any alcoholic beverages are proposed to be sold.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-19. - Sales to be in public view.

The entrance of any premises for which a retail license has been issued shall be of clear glass and permit an unobstructed view. The premises shall be so erected and maintained as to furnish a clear view of the premises from the sidewalk, or, if the premises are not on the street level, from the entrance. No partition, box, stall, screen, curtain, or other device shall obstruct the view or the general observation of persons, but partitions, subdivisions, or panels that are not higher than forty-eight (48) inches from the floor shall not be construed as obstructing the view or the general observation of persons.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 9, 4-13-00)

Sec. 3-20. - Delivery hours for malt beverages.

- (a) It shall be unlawful for any distributor, wholesaler or manufacturer of malt beverages or for any agent or employee thereof to deliver any malt beverages in the urban county between the hours of 12:00 midnight on Saturday and 6:00 a.m. on the succeeding Monday. The word "deliver" as used herein shall include the transfer of actual possession of malt beverages whether the same be sold, bartered, loaned or transferred in any manner, by a distributor, wholesaler or manufacturer, or by any agent or employee thereof.
- (b) It shall be unlawful for any person, either for private use or for the purpose of sale, to receive from any distributor, wholesaler or manufacturer of malt beverages, or from any agent or employee thereof, malt beverages between the hours of 12:00 midnight on Saturday and 6:00 a.m. on the succeeding Monday.

(Ord. No. 105-68, § 1, 5-2-68; Ord. No. 86-2000, § 10, 4-13-00)

State Law reference— See KRS 244.480.

Sec. 3-21. - Business hours.

- (a) *Distilled spirits and wine by the drink.* Unless otherwise provided herein, the selling, giving away, or delivering of distilled spirits or wine by the drink shall not be permitted during the following hours:
 - (1) Between the hours of 2:30 a.m. and 11:00 a.m. on a Sunday;
 - (2) Between the hours of 2:30 a.m. and 6:00 a.m. on a Monday; and
 - (3) Between the hours of 2:30 a.m. and 6:00 a.m. on any day from Tuesday through Saturday.
- (b) *Malt beverages.* Unless otherwise provided herein, the selling, giving away, or delivering of malt beverages shall not be permitted during the following hours:
 - (1) Between the hours of 2:30 a.m. and 11:00 a.m. on a Sunday;
 - (2) Between the hours of 2:30 a.m. and 6:00 a.m. on a Monday; and
 - (3) Between the hours of 2:30 a.m. and 6:00 a.m. on any day from Tuesday through Saturday.
- (c) *Retail package distilled spirits and wine.* The selling, giving away, or delivering of packaged distilled spirits or wine shall not be permitted during the following hours:
 - (1) Between the hours of 2:30 a.m. and 1:00 p.m. on a Sunday;
 - (2) Between the hours of 9:00 p.m. on a Sunday and 6:00 a.m. on a Monday; and
 - (3) Between the hours of 2:30 a.m. and 6:00 a.m. on any day from Tuesday through Saturday.
- (d) Any commercial airport may apply for a special extended hours license, which if granted, shall extend the hours of (a) and (b) above through 4:00 a.m. on any day of the week.
- (e) A premises must obtain the appropriate type(s) of license(s) prior to being able to lawfully sell, give away, or deliver alcohol of any kind pursuant to the relevant licensing provisions of this chapter.
- (f) If a licensee provides a separate locked department within its licensed remises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and such department is kept locked during the applicable times mentioned above, it shall be deemed to have complied with this section.
- (g) The term "locked department" shall include all display windows, show cases, shelves, and counters. In no event shall the shelves and counters be left open, but shall have a door affixed thereto, and the storeroom, display windows, show cases, shelves and counters shall be under lock and key. The "door" may be sliding or affixed with hinges and may be glass, wood, or wire netting of not more than one (1) inch mesh.

A separate locked department will be deemed to exist if the licensee uses a register or computerized check-out system that prohibits the sale of alcoholic beverages and the licensee physically conceals or covers all stocks of alcoholic beverages during the times the licensee is not permitted to remain open.

- (h) A licensee shall not sell, give away, or deliver any alcoholic beverage or permit any alcoholic beverage to be sold, given away, or delivered on the licensed premises during the hours specified above. A licensee shall not permit the consumption of alcoholic beverages on the licensed premises for a period of more than thirty (30) minutes after the hour it is to close for business or to stop selling and delivering alcoholic beverages.

(Ord. No. 105-68, § 1, 5-2-86; Ord. No. 127-86, § 5, 7-17-86; Ord. No. 4-87, § 1, 1-8-87; Ord. No. 5-87, § 1, 1-8-87; Ord. No. 86-2000, § 11, 4-13-00; Ord. No. 314-2001, § 1, 12-13-01; Ord. No. 13-2002, § 1, 1-24-02; Ord. No. 95-2004, § 1, 5-13-04; Ord. No. 200-2007, § 2, 9-13-07; Ord. No. 107-2014, §§ 1, 2, 9-11-14)

Sec. 3-22. - Dancing where beverages sold; permits, regulations.

- (a) No person operating a business wherein alcoholic beverages are sold shall allow dancing on the premises by patrons without first obtaining the permit and paying the license fee as herein prescribed.
- (b) A permit shall be obtained by filing an application with the commissioner of public safety or his designee who shall cause inspections, by the divisions of fire and emergency services and building inspection, to be made of the premises for which an application has been made to allow dancing. No permit shall be issued by the commissioner of public safety unless all the ordinances and laws mentioned in subsections (c) and (d) of this section are being fully complied with and the licensee holds all licenses required by chapter 3 of this code.
- (c) The chief of the division of fire and emergency services or his designee shall inspect the premises for which an application has been made to allow dancing under the terms of this section to determine whether the premises and the structures located thereon comply with all the requirements of the existing fire prevention ordinances of the urban county government, including the standards of safety adopted by the urban county government and all other laws relative to fire prevention. The chief of the division of fire and emergency services or his designee shall identify those portions of the premises where dancing is allowed and the maximum number of persons allowed in that portion of the premises where dancing is allowed; and in fixing the maximum number of persons he shall give due consideration to the type of activity for which the permit is sought.
- (d) The director of the division of building inspection or his designee shall inspect the premises for which an application has been made to allow dancing under the terms of this section to ascertain whether the premises conform in all respects to the ordinances and codes relating to the structures on such premises. The director of the division of building inspection shall further ascertain whether, under the zoning ordinances of the urban county government, dancing is allowed at the location for which the permit is sought.
- (e) The commissioner of public safety shall, within sixty (60) days from receipt of an application for a dance permit, submit to the chief administrative officer, his recommendation for the grant or denial of the permit. If the commissioner of public safety recommends that the permit should be denied then his recommendation shall be accompanied by a written report setting forth why the permit should not be issued. It shall be the duty of the chief administrative officer to review the recommendation and report and to approve or disapprove the application.
- (f) The applicant, prior to allowing dancing by its patrons, if the application is approved by the chief administrative officer and issued by the commissioner of public safety, shall pay to the urban county government through the division of revenue a minimum license fee of two hundred dollars (\$200.00) per year. The applicant shall further comply in all respects with the provisions of chapter 13 of this Code or subsequent licensing ordinances pertaining to the payment of license fees. No dance permit shall be issued to the applicant unless the written approval of the chief administrative officer is presented to the division of revenue.
- (g) The permit issued under the terms of this section shall not be transferable. In case the permit applies to a corporation, a limited liability corporation, a partnership, or a limited liability company, a transfer of ownership of more than ten (10) percent interest in the corporation, partnership, or company shall cancel the permit.
- (h) The provisions of this section shall not apply to a nonprofit religious, charitable, benevolent, fraternal, or social organization which is recognized by the United States Internal Revenue Service as being exempt from federal taxation or to bona fide hotels which rent their facilities for private dances, provided the hotels are not engaged in promoting dances for their own profit beyond the charge made to organizations or individuals conducting private dances. For the purpose of this section "bona fide hotels" shall be construed as establishments wherein the chief business transacted is the renting of rooms to transient guests and the customary hotel accommodations and facilities.

- (i) The premises wherein dancing by patrons is permitted under the terms and provisions of this section shall be at all times reasonably and adequately lighted and the license shall be posted and at all times displayed in a conspicuous place in the room or principal room where dancing is permitted.
- (j) The dance permit may be renewed by filing a renewal application with the commissioner of public safety or his designee who shall not be required to re-inspect the premises pursuant to subsections (b), (c) and (d) above but shall determine whether the applicant otherwise continues to meet the requirements for a dance permit. The provisions of subsections (e) and (f) above shall apply to the renewal application.
- (k) Any person violating any of the provisions of this section or who, having been issued a permit hereunder, allows such business to operate in such a manner as to create a nuisance or to violate any of the provisions of this chapter or any law relating to the sale of alcoholic beverages shall, in addition to any other penalties prescribed by law, be fined in accordance with section 3-26(e).

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 246-97, § 2, 11-20-97; Ord. No. 47-99, § 7, 3-2-99; Ord. No. 86-2000, § 12, 4-13-00)

Sec. 3-23. - Display of warning to minors.

It shall be the duty of every retail licensee to display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in 30-point or larger type, substantially as follows:

WARNING TO MINORS

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100.00) if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.
2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.
4. Use or attempt to use any false, fraudulent or altered identification card or document to purchase or attempt to purchase or otherwise obtaining any alcoholic beverages.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 13, 4-13-00)

Sec. 3-23.1. - Permitting possession by minors prohibited.

- (1) No person being the owner or occupant or otherwise in possession or control of any property located within the urban county shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.
- (2) No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages.
- (3) It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.
- (4) As used in this section, the term "alcoholic beverages" shall have the meaning given to it in KRS 241.010.

(Ord. No. 51-87, § 1, 4-2-87; Ord. No. 86-2000, § 14, 4-13-00)

Cross reference— Minors obtaining alcoholic beverages, § 14-39.

Sec. 3-23.2. - Congregating on certain ABC licensed premises and vacant premises prohibited.

- (1) No person or entity operating a package liquor store shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.
- (2) No person or entity being the owner or otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.
- (3) No persons shall congregate for the purposes, under the circumstances, or in the places proscribed in subsections (1) and (2) of this section.
- (4) It shall be a defense to any prosecution under subsection (1) or (2) if such licensed vendor or property owner shall permit the division of police to post and maintain a legible, painted or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.
- (5) As used in this section, the term:
 - (a) *Habitual* shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;
 - (b) *Package liquor store* shall mean a retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes;
 - (c) *Public nuisance* shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by, or the health, safety and welfare of the public; and
 - (d) *Vacant property* shall mean a vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

(Ord. No. 74-88, § 1, 4-21-88)

Sec. 3-23.3. - Alcohol warning signs; drinking alcohol during pregnancy.

All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(Ord. No. 204-88, § 1, 9-8-88; Ord. No. 256-88, § 1, 11-3-88; Ord. No. 100-93, § 1, 6-17-93)

State Law reference— Similar provisions, KRS 243.895.

Sec. 3-24. - Lavatory facilities, where required.

All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-25. - Inactive and dormant license renewal.

- (a) Any license under which no business is transacted for a period of forty-five (45) days shall be deemed inactive and shall be surrendered by the licensee or shall be revoked by the urban county administrator. Any licensee who has had its state alcoholic beverage license placed in dormancy shall, within three (3) days of the state granting its dormancy application, apply to place its urban county license in dormancy or shall immediately surrender its urban county license.
- (b) A licensee shall not be deemed to have transacted business for purposes of this section unless its gross sales of alcoholic beverages during any calendar month equal or exceed ten (10) percent of its gross sales of alcoholic beverages for the immediately preceding calendar year.
- (c) If a license becomes inactive under the provisions of this section because the licensee was unable to transact business on the licensed premises due to an act of God, casualty, act of eminent domain, landlords refusal to renew an existing lease for the premises, court action, or other similar and verifiable business reason, then the license may not be revoked if the licensee files an application with the urban county administrator to place the license in dormancy and the licensee otherwise satisfies the conditions for a dormant license. The application must be filed prior to the forty-fifth day on which no business is transacted under the license and shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00).
- (d) The urban county administrator may grant an application to place a license in dormancy if he determines that such status satisfies the business reasons identified in subsection (b).
- (e) A dormant license shall continue to be valid during the license period but no business shall be transacted under the license and no alcoholic beverages may be kept on the licensed premises. The dormant license shall be renewed in the same manner as an active license. A license may remain in dormancy for a maximum period of twelve (12) months from the date the dormant license application is granted. Each licensee shall be permitted to place a license in dormancy on only two (2) occasions.
- (f) A licensee may activate a dormant license by filing a written request with the urban county administrator. Activation may be granted if the licensee meets all state and local requirements to hold the license.

(Ord. No. 86-2000, § 15, 4-13-00)

Sec. 3-26. - Penalties.

- (a) Any person who shall engage in or carry on, without a license, any business for which a license is provided by this chapter, or who, having had a license, shall continue in such business in any succeeding year without obtaining a renewal of his license, shall be guilty of a misdemeanor and shall be liable to be proceeded against for the penalty prescribed in subsection (b) in addition to the amount of the license.
- (b) Any person who shall violate any provisions of this chapter, other than those provisions specified in subsections (c) through (k) of this section, shall, for each offense, and upon conviction in the district court of the urban county government, be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or confined in the detention center for more than thirty (30) days, or both so fined and imprisoned. Each day of such violation shall constitute a separate offense.
- (c) Any person violating any of the provisions of section 3-20 shall, upon conviction thereof, be fined one hundred dollars (\$100.00) for each offense.
- (d) Any person, who, by himself or acting through another, directly or indirectly, violates any of the provisions of section 3-21 shall upon the first conviction thereof be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or imprisoned for not more than six (6) months or both; and for the second and each subsequent conviction he shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or imprisoned for not more than six (6) months, or both.

- (e) Any person violating any of the provisions of section 3-22 shall, upon conviction thereof, be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or confined in the detention center not less than one (1) day nor more than thirty (30) days or both so fined and imprisoned; and the license issued to such person shall become null and void.
- (f) Any person violating any of the provisions of section 3-23 or section 3-23.3 shall, upon conviction thereof, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each offense.
- (g) Any person violating any of the provisions of section 3-23.1 shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and each day of such operation shall constitute a separate offense.
- (h) Any person violating any of the provisions of section 3-23.2 shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), and each day of such assembly shall constitute a separate offense.
- (i) Any person violating any of the provisions of section 3-24 by selling beer or liquor by the drink without providing lavatory facilities shall be fined not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00), and each day of such operation shall constitute a separate offense.
- (j) Any person violating the provision of section 3-27 shall, upon conviction thereof, be fined up to five hundred dollars (\$500.00) for each offense.
- (k) Any person violating the provisions of section 3-28 shall, upon conviction thereof, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each offense.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 51-87, § 2, 4-2-87; Ord. No. 74-88, § 2, 4-21-88; Ord. No. 204-88, § 2, 9-8-88; Ord. No. 79-97, §§ 1, 3, 5-29-97; Ord. No. 233-98, § 2, 8-27-98; Ord. No. 278-2003, § 2, 11-20-03; Ord. No. 282-2005, § 2, 10-6-05)

Sec. 3-27 - Malt beverage keg registration.

- (a) For purposes of this section a "keg" is defined as a brewery-sealed individual container of malt beverage having a liquid capacity of six (6) or more gallons.
- (b) Each malt beverage retail licensee who sells malt beverages in kegs for consumption off the premises of the licensee shall:
 - (1) Affix a keg identification tag on all kegs at the time of sale;
 - (2) Require the purchaser of the keg to complete a keg registration form;
 - (3) Provide a copy of the completed keg registration form to the purchaser at the time of sale;
 - (4) Retain, maintain and produce the keg registration form in the same manner as the licensee is required by state law to keep, maintain, retain and produce alcoholic beverage records;
 - (5) Remove the keg identification tag when the keg is returned to the licensee; and
 - (6) If a keg is returned without the keg identification tag, within five (5) business days of the return date provide written notice of that fact to the office of the urban county alcoholic beverage control administrator by delivery or by regular, first-class mail.
- (c) The keg identification tag shall be furnished by the urban county administrator and shall be in a form prescribed by administrator. The keg identification tag shall consist of paper within a clear plastic coating, plastic, metal, or another durable material that is not easily destroyed. The keg identification tag shall be uniquely numbered to allow the keg to be traced and shall be affixed to the keg at the time of sale with nylon ties or cording, wire tires or other metal attachment devices, or another durable means of tying or attachment. The keg identification tag shall include a prominently visible warning that the intentional removal or obliteration of the tag is unlawful. The keg identification tag should be

designed so that when affixed or attached to the keg it will not mar or otherwise physically damage the keg.

- (d) The keg registration form shall be in the form prescribed and furnished by the urban county administrator and shall contain the following:
 - (1) The name and address of the purchaser, verified by an equivalent valid identification document;
 - (2) The purchaser's motor vehicle operator's number or the type and number of an equivalent identification document;
 - (3) A statement signed by the purchaser stating that:
 - a. The purchaser is twenty-one (21) years of age or older;
 - b. The purchaser does not intend to allow persons less than twenty-one (21) years of age to consume any of the malt beverages being purchased;
 - c. The purchaser will not intentionally remove or obliterate or knowingly permit the removal or obliteration of the keg identification tag; and
 - d. The purchaser will produce a copy of the keg registration form upon request of any law enforcement officer.
 - (4) The location or property address or addresses where the keg will be physically located and the contents consumed and the date or dates on which the contents will be consumed;
 - (5) The date of sale, the size of the keg, the keg identification number, the amount of the container deposit, if any, paid by the purchaser, and the name of the licensee's agent, servant or employee selling the keg; and
 - (6) A summary of the requirements of this section including the penalties for any violations of this section and the penalties for providing alcoholic beverages to a minor.
- (e) Any brewer, distributor or microbrewer who sells malt beverages in kegs to its employees for home consumption or to charitable or fraternal organizations holding group meetings, picnics or outings shall comply with the requirements of this section when the keg will be physically located or the contents consumed in the urban county.
- (f) Any person in possession of a keg that was purchased outside of the urban county shall comply with this section by:
 - (1) Obtaining a keg identification tag from the urban county administrator within five (5) days of bringing the keg into Fayette County;
 - (2) Affixing the identification tag to the keg;
 - (3) Providing the urban county administrator with the information required to complete the keg registration form and sign the completed form; and
 - (4) Producing a copy of the keg registration form upon request of any law enforcement officer; and
 - (5) Removing the keg identification tag when the keg is returned to the licensee and, within five (5) business days of such removal, returning the identification tag to the office of the urban county alcoholic beverage control administrator.
- (g) It shall be unlawful:
 - (1) To sell or offer for sale a keg without an affixed keg registration tag;
 - (2) To sell a keg without obtaining a completed keg registration form;
 - (3) Except as provided herein, for any person, other than a licensed retailer, brewer, distributor or microbrewer, to remove or obliterate a keg identification tag;
 - (4) To knowingly provide false information on a keg registration form or to sign a keg registration form knowing the information contained in the form is false;

- (5) For any person, other than a licensed retailer, brewer, distributor, transporter or microbrewer, to possess a keg without an affixed keg registration tag;
- (6) Except for the five-day period in (f)(1) for kegs purchased outside Fayette County, for any person, other than a licensed retailer, brewer, distributor, transporter or microbrewer, to keep a keg at any place or places other than the location or property address or addresses identified on the keg registration form, except for transporting a keg to and from the licensed premises or between the locations or addresses identified on the keg registration form.
- (h) Any keg sold or kept in violation of this section may be confiscated by any law enforcement officer and, upon conviction of the seller or keeper thereof, the keg or any deposit paid to the retail licensee who sold the keg shall be forfeited to the urban county government.
- (i) The urban county administrator may charge a reasonable fee for furnishing the keg identification tag and keg registration form, which fees shall be used to pay the costs of implementing and enforcing this section. The urban county administrator is authorized to promulgate reasonable regulations to implement the provisions of this section.

(Ord. No. 278-2003, § 1, 11-20-03)

Sec. 3-28. - Beverage service training.

- (a) Any person who sells or serves alcoholic beverages in a licensed retail establishment or in any premise where alcoholic beverages are sold or served by the holder of a caterer's or special event license shall participate in and successfully complete a responsible beverage service training program meeting the requirements of subsection (e) below. The urban county administrator is authorized to determine whether a program satisfies the requirements of subsection (e), and upon the request of the licensee he will timely review a program to determine whether it satisfies these requirements. In the event the urban county administrator determines that a program fails to meet any of the requirements in subsection (e) below, he will notify the licensee of the non-satisfactory portion(s) of the program.
- (b) All persons who are required to complete training under subsection (a) above and who were not previously subject to the training requirement, shall complete the training within sixty (60) days of the date on which the person is employed or otherwise first subject to the training requirement.
- (c) Every licensee shall require every agent, servant or employee who sells or serves or is authorized to sell or serve alcoholic beverages on the licensed premises to complete a responsible beverage service training program meeting the requirements of subsection (e) below. Except for the sixty-day grace period in subsection (b) above, no licensee shall permit any person who has failed to successfully complete the mandatory training to sell or serve alcoholic beverages.
- (d) Every licensee shall maintain on the licensed premises a file containing the name, job description, date of employment or association with the licensee and proof of successful completion of a responsible beverage service training meeting the requirements of subsection (e) below for each agent, servant or employee of the licensee who sells or serves or is authorized to sell or serve alcoholic beverages. The licensee shall retain, maintain and produce the compliance file in the same manner as the licensee is required by state law to keep, maintain, retain and produce alcoholic beverage records;
- (e) A responsible beverage service training program must effectively train its participants in the following:
 - (1) Applicable state statutes and regulations and local ordinances regarding the sale of alcoholic beverages. The urban county administrator will prepare and distribute to all licensees a list of the minimal statutes, regulations and ordinances that each agent, servant or employee of a licensee who sells or serves or is authorized to sell or serve alcoholic beverages should know. A signed statement from each such agent, servant or employee indicating that he or she is familiar with and understands the list of statutes, regulations and ordinances provided by the urban county administrator shall satisfy this aspect of training;

- (2) Verification of age, forms of identification and methods of recognizing false or misleading age documents;
- (3) The effect of alcohol on humans and the physiology of alcohol intoxication;
- (4) Recognition of the signs or characteristics of alcohol intoxication;
- (5) Strategies for intervention and preventing underage and intoxicated persons from consuming alcoholic beverages; and
- (6) Potential liability for persons selling or serving alcoholic beverages.

(Ord. No. 282-2005, § 1, 10-6-05)

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Chapter 3 ALCOHOLIC BEVERAGES ¹¹

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Sec. 3-1. Definitions.

The words and terms used in this chapter specifying the kinds of licenses shall have the same meanings as in those parts of the Kentucky Revised Statutes applying to the licenses provided herein.

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**Sec. 3-2. Office of urban county alcoholic beverage control administrator—
Qualifications.**

There is created an office of urban county alcoholic beverage control administrator. The urban county administrator and such investigators and clerks as are deemed necessary for the proper conduct of his office shall be appointed by the mayor. The urban county administrator shall take the oath prescribed in section 228 of the Kentucky Constitution before entering upon such duties.

(Ord. No. 134-79, § 2, 5-31-79)

Cross reference— Appointment, salary, benefits for alcoholic beverage control administrator, § 22-47.

Sec. 3-3. Same—Powers.

- (a) The urban county administrator and his investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the urban county government.
- (b) The urban county administrator, and his investigators, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-4. Same—Bond.

- (a) Before entering upon his duties, the urban county administrator shall execute a bond with a good corporate security in the penal sum of not less than one thousand dollars (\$1,000.00).
- (b) The urban county administrator may require any employee under his supervision to execute a similar bond in such penal sum as he deems necessary.
- (c) The cost of the bonds given under this section shall be borne by the urban county government.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-5. Same—Function.

The functions of the urban county administrator shall be the same with respect to urban county licenses and regulations as the functions of the alcoholic beverage control board with respect to state licenses and regulations, except that no regulations adopted by the urban county administrator may be less stringent than the statutes relating to alcoholic beverage control or than the regulations of the board.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 1, 4-13-00)

Sec. 3-6. Same—Appeals.

Appeals from the orders of the urban county administrator may be taken as prescribed by law.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-7. License applications—Procedure.

- (a)

Each person, before applying to the state alcoholic beverage control board under the provisions of KRS chapter 243, to do business in the urban county shall first apply to and obtain approval of the urban county administrator for an urban county license to do business; and no person shall engage in any business for which a license is provided under this section without first obtaining such license. Such licenses shall conform in their provisions and the business authorized to kindred state licenses.

- (b) Such application for an urban county license shall be written and verified, shall contain the information required by the provisions of KRS 243.390, and shall otherwise comply with all provisions of law.
- (c) The urban county administrator shall either approve or disapprove of any such application in accordance with the law.
- (d) Upon approval of any such application, the applicant shall pay the amount of the license fee provided in this chapter, within the time prescribed in this chapter, to the commissioner of finance, who shall issue the license.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-8. Same—Transfer or assignment.

The urban county administrator may permit the transfer or assignment of any license issued under this chapter to another person or premises under the same terms and conditions as provided by statute.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-9. Distilled spirits and wine—Special private club license.

- (a) Any applicant for a special private club license shall be required, as a condition precedent to obtaining such a license, to show to the satisfaction of the urban county administrator that it is a nonprofit social, fraternal, military or political organization or club, which for more than one (1) year prior to the date of filing such application has maintained and operated a club room or rooms within the urban county from which the general public is excluded.
- (b) This license shall authorize the licensee to exercise the privilege of a malt beverage or a distilled spirits and wine retail drink licensee, or both, at the designated premises if the general public is excluded. All restrictions and prohibitions applying to a malt beverage and a distilled spirits and wine retail drink licensee shall apply to a special private club licensee.
- (c) A special private club license may be issued by the urban county administrator, the fee for which shall be three hundred dollars (\$300.00) per annum.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 2, 4-13-00)

Sec. 3-9.1. Reserved.

Editor's note—

Ord. No. 200-2007, § 1, adopted Sept. 13, 2007, deleted § 3-9.1 in its entirety. Former § 3-9.1 pertained to distilled spirits and wine—hotels, motels, convention centers, restaurants, commercial airports license for Sunday sale and derived from Ord. No. 127-86, § 5, adopted July 17, 1986.

Sec. 3-9.2. Reserved.

Editor's note—

Ord. No. 200-2007, § 1, adopted Sept. 13, 2007, deleted § 3-9.2 in its entirety. Former § 3-9.2 pertained to Sunday malt beverage retailer's license for hotels, motels, convention centers, restaurants, and commercial airports and derived from Ord. No. 6-87, § 1, adopted Jan. 8, 1987; Ord. No. 291-95, § 1, adopted Dec. 7, 1995; and Ord. No. 32-2007, § 1, adopted Feb. 8, 2007.

Sec. 3-9.3. Reserved.

Editor's note—

Ord. No. 200-2007, § 1, adopted Sept. 13, 2007, deleted § 3-9.3 in its entirety. Former § 3-9.3 pertained to extended hours supplemental license for convention centers, race tracks and commercial airports and derived from Ord. No. 4-87, § 1, adopted Jan. 8, 1987; and Ord. No. 95-2004, § 2, adopted May 13, 2004.

Sec. 3-10. License revocation or suspension—Powers of board.

The urban county administrator shall have the same powers and duties with respect to suspension and revocation of licenses granted under this chapter as the state alcoholic beverage control board has with respect to licenses granted under KRS chapter 243 in addition to any other powers and duties granted to or imposed upon him by ordinance.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-11. Same—Effect.

Upon revocation of any license issued under this chapter, the licensee shall not thereafter be granted a license under this chapter within two (2) years next after such revocation; and on any such revocation, the urban county administrator, in his discretion, may order that no other license be issued to anyone to conduct in the same premises any business required to be licensed by this chapter within two (2) years next after the revocation of such license.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-12. Alcoholic beverage license fees.

The following kinds of alcoholic beverage licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Distiller's license, per annum\$ 500.00
- (2) Rectifier's license, per annum3,000.00
- (3) Wholesaler's distiller's spirit and wine license, per annum3,000.00
- (4) Quota retail package license, per annum1,000.00
- (5) Quota retail drink license, per annum1,000.00
- (6) Special temporary license, per event166.66
- (7) Nonquota type 1 retail drink license, per annum2,000.00
- (8) Nonquota type 2 retail drink license, per annum1,000.00
- (9) Nonquota type 3 retail drink license, per annum300.00
- (10) Distilled spirits and wine special temporary auction license, per event200.00
- (11) Special Sunday retail drink license, per annum300.00
- (12)

- Extended hours supplemental license, per annum2,000.00
- (13) Caterer's license, per annum800.00
- (14) Bottling house or bottling house storage license, per annum1,000.00
- (15) Limited restaurant license, per annum1,200.00
- (16) Limited golf course license, per annum1,200.00

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 127-86, § 5, 7-17-86; Ord. No. 86-2000, § 3, 4-13-00; Ord. No. 26-2004, § 1, 2-5-04; Ord. No. 85-2013, § 1, 7-9-13)

Note—See the editor's note to § 3-9.1

Sec. 3-13. Malt beverage license fees.

The following kinds of malt beverage licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Brewer's license per annum\$500.00
- (2) Microbrewery license per annum500.00
- (3) Malt beverage distributor's license, per annum400.00
- (4) Nonquota retail malt beverage package license, per annum200.00
- (5) Nonquota type 4 retail malt beverage drink license, per annum200.00
- (6) Malt beverage brew-on-premises license, per annum100.00

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 6-87, § 1, 1-8-87; Ord. No. 86-2000, § 4, 4-13-00; Ord. No. 26-2004, § 2, 2-5-04; Ord. No. 85-2013, § 2, 7-9-13)

Sec. 3-13.1. Reserved.

Editor's note—

Ord. No. 85-2013, § 3, adopted July 9, 2013, repealed § 3-13.1 which pertained to the special convention center, extended hours, and horse race track license and derived from Ord. No. 65-85, § 1, adopted April 4, 1985; Ord. No. 4-87, § 1, adopted Jan. 8, 1987; Ord. No. 86-2000, § 5, adopted April 13, 2000; and Ord. No. 26-2004, § 3, adopted Feb. 5, 2004.

Sec. 3-14. License period; time of payment; delinquency.

- (a) The license period for all forms of alcoholic beverage licenses shall conform to the period covered by kindred licenses issued by the state; and such licenses, other than special temporary licenses, when issued, shall be valid for a period of no more than one (1) year. All licenses shall expire on the thirtieth day of June of each year until a renewal system with staggered dates has been implemented by the urban county administrator.
- (b) The annual license renewal fees provided in this chapter shall be paid on or before the tenth day of July of each year or, after the implementation of a renewal system with staggered dates, within ten (10) days after the expiration date and any person holding any form of such license who fails to pay the license fees by said date shall be subject to a revocation of such license and in addition shall pay a penalty of ten (10) percent of the amount of the annual license renewal fee if the license is subsequently renewed.
- (c) The license fees of any person entering upon any of the businesses required by this chapter to be licensed shall be due and payable at the time of their entering upon any of such businesses and if not paid within ten (10) days after they become due shall be deemed delinquent and shall have added thereto a penalty of ten (10) percent of the license tax.
- (d)

Persons delinquent in their payment of any license fees imposed upon them by this chapter shall be proceeded against and subjected to revocation of license and to additional penalty as provided in section 3-26

- (e) Until a renewal system with staggered dates is implemented, when any person applies for a license authorized to be issued under this chapter after July 1 of any year or for a new license after the implementation of a renewal system with staggered dates, he shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half ($\frac{1}{2}$) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 6, 4-13-00)

Sec. 3-15. Disposition of license fees.

All money derived from the collection of license fees or the forfeiture of bonds, pursuant to this chapter, shall be paid into and become part of the general fund of the urban county government.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-16. License to contain certain information.

There shall be stamped or printed on the face of each license issued pursuant to this chapter the type of license issued, such as "Retail Beer," "Retail Package Liquor" and so forth, together with the words "License period shall be July 1 through June 30," and the year to be covered by such license, or, in the case of special temporary licenses and after the implementation of a renewal system with staggered dates, the precise dates covered by the license.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 7, 4-13-00)

Sec. 3-17. License to be displayed.

- (a) Before commencing or doing any business for the time for which a license has been issued, all licenses issued under this chapter shall be posted and at all times displayed in a conspicuous place in the room or principal room where the business is carried on, so that all persons visiting the place may readily see the license.
- (b) No licensee shall post the license or permit it to be posted upon premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.
- (c) Whenever a license is lost or destroyed, a duplicate license shall be issued upon proof of loss satisfactory to the urban county administrator and upon the payment of a fee of twenty-five dollars (\$25.00).

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 8, 4-13-00)

Sec. 3-18. Sales only at place specified in license.

No license issued pursuant to this chapter shall authorize the sale of alcoholic beverages of any kind at more than one (1) place, which shall be specified in the license; and a separate license must be taken out for each place in which any alcoholic beverages are proposed to be sold.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-19. Sales to be in public view.

The entrance of any premises for which a retail license has been issued shall be of clear glass and permit an unobstructed view. The premises shall be so erected and maintained as to furnish a clear view of the premises from the sidewalk, or, if the premises are not on the street level, from the entrance. No partition, box, stall, screen, curtain, or other device shall obstruct the view or the general observation of persons, but partitions, subdivisions, or panels that are not higher than forty-eight (48) inches from the floor shall not be construed as obstructing the view or the general observation of persons.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 9, 4-13-00)

Sec. 3-20. Delivery hours for malt beverages.

- (a) It shall be unlawful for any distributor, wholesaler or manufacturer of malt beverages or for any agent or employee thereof to deliver any malt beverages in the urban county between the hours of 12:00 midnight on Saturday and 6:00 a.m. on the succeeding Monday. The word "deliver" as used herein shall include the transfer of actual possession of malt beverages whether the same be sold, bartered, loaned or transferred in any manner, by a distributor, wholesaler or manufacturer, or by any agent or employee thereof.
- (b) It shall be unlawful for any person, either for private use or for the purpose of sale, to receive from any distributor, wholesaler or manufacturer of malt beverages, or from any agent or employee thereof, malt beverages between the hours of 12:00 midnight on Saturday and 6:00 a.m. on the succeeding Monday.

(Ord. No. 105-68, § 1, 5-2-68; Ord. No. 86-2000, § 10, 4-13-00)

State law reference— See KRS 244.480.

Sec. 3-21. Business hours.

- (a) *Distilled spirits and wine by the drink.* Unless otherwise provided herein, the selling, giving away, or delivering of distilled spirits or wine by the drink shall not be permitted during the following hours:
 - (1) Between the hours of 2:30 a.m. and 11:00 a.m. on a Sunday;
 - (2) Between the hours of 2:30 a.m. and 6:00 a.m. on a Monday; and
 - (3) Between the hours of 2:30 a.m. and 6:00 a.m. on any day from Tuesday through Saturday.
- (b) *Malt beverages.* Unless otherwise provided herein, the selling, giving away, or delivering of malt beverages shall not be permitted during the following hours:
 - (1) Between the hours of 2:30 a.m. and 11:00 a.m. on a Sunday;
 - (2) Between the hours of 2:30 a.m. and 6:00 a.m. on a Monday; and
 - (3) Between the hours of 2:30 a.m. and 6:00 a.m. on any day from Tuesday through Saturday.
- (c)

Retail package distilled spirits and wine. The selling, giving away, or delivering of packaged distilled spirits or wine shall not be permitted during the following hours:

- (1) Between the hours of 2:30 a.m. and 1:00 p.m. on a Sunday;
 - (2) Between the hours of 9:00 p.m. on a Sunday and 6:00 a.m. on a Monday; and
 - (3) Between the hours of 2:30 a.m. and 6:00 a.m. on any day from Tuesday through Saturday.
- (d) Any commercial airport may apply for a special extended hours license, which if granted, shall extend the hours of (a) and (b) above through 4:00 a.m. on any day of the week.
- (e) No premises shall sell, give away or deliver alcoholic beverages of any kind on any primary or regular election day during the hours that the polls are open.
- (f) A premises must obtain the appropriate type(s) of license(s) prior to being able to lawfully sell, give away, or deliver alcohol of any kind pursuant to the relevant licensing provisions of this chapter.
- (g) If a licensee provides a separate locked department within its licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and such department is kept locked during the applicable times mentioned above, it shall be deemed to have complied with this section.
- (h) The term "locked department" shall include all display windows, show cases, shelves, and counters. In no event shall the shelves and counters be left open, but shall have a door affixed thereto, and the storeroom, display windows, show cases, shelves and counters shall be under lock and key. The "door" may be sliding or affixed with hinges and may be glass, wood, or wire netting of not more than one (1) inch mesh.

A separate locked department will be deemed to exist if the licensee uses a register or computerized check-out system that prohibits the sale of alcoholic beverages and the licensee physically conceals or covers all stocks of alcoholic beverages during the times the licensee is not permitted to remain open.

- (i) A licensee shall not sell, give away, or deliver any alcoholic beverage or permit any alcoholic beverage to be sold, given away, or delivered on the licensed premises during the hours specified above. A licensee shall not permit the consumption of alcoholic beverages on the licensed premises for a period of more than thirty (30) minutes after the hour it is to close for business or to stop selling and delivering alcoholic beverages.

(Ord. No. 105-68, § 1, 5-2-86; Ord. No. 127-86, § 5, 7-17-86; Ord. No. 4-87, § 1, 1-8-87; Ord. No. 5-87, § 1, 1-8-87; Ord. No. 86-2000, § 11, 4-13-00; Ord. No. 314-2001, § 1, 12-13-01; Ord. No. 13-2002, § 1, 1-24-02; Ord. No. 95-2004, § 1, 5-13-04; Ord. No. 200-2007, § 2, 9-13-07)

Sec. 3-22. Dancing where beverages sold; permits, regulations.

- (a) No person operating a business wherein alcoholic beverages are sold shall allow dancing on the premises by patrons without first obtaining the permit and paying the license fee as herein prescribed.
- (b) A permit shall be obtained by filing an application with the commissioner of public safety or his designee who shall cause inspections, by the divisions of fire and emergency services and building inspection, to be made of the premises for which an application has been made to allow dancing. No permit shall be issued by the commissioner of public safety unless all the ordinances and laws mentioned in subsections (c) and (d) of this section are being fully complied with and the licensee holds all licenses required by chapter 3 of this code.
- (c) The chief of the division of fire and emergency services or his designee shall inspect the premises for which an application has been made to allow dancing under the terms of this

section to determine whether the premises and the structures located thereon comply with all the requirements of the existing fire prevention ordinances of the urban county government, including the standards of safety adopted by the urban county government and all other laws relative to fire prevention. The chief of the division of fire and emergency services or his designee shall identify those portions of the premises where dancing is allowed and the maximum number of persons allowed in that portion of the premises where dancing is allowed; and in fixing the maximum number of persons he shall give due consideration to the type of activity for which the permit is sought.

- (d) The director of the division of building inspection or his designee shall inspect the premises for which an application has been made to allow dancing under the terms of this section to ascertain whether the premises conform in all respects to the ordinances and codes relating to the structures on such premises. The director of the division of building inspection shall further ascertain whether, under the zoning ordinances of the urban county government, dancing is allowed at the location for which the permit is sought.
- (e) The commissioner of public safety shall, within sixty (60) days from receipt of an application for a dance permit, submit to the chief administrative officer, his recommendation for the grant or denial of the permit. If the commissioner of public safety recommends that the permit should be denied then his recommendation shall be accompanied by a written report setting forth why the permit should not be issued. It shall be the duty of the chief administrative officer to review the recommendation and report and to approve or disapprove the application.
- (f) The applicant, prior to allowing dancing by its patrons, if the application is approved by the chief administrative officer and issued by the commissioner of public safety, shall pay to the urban county government through the division of revenue a minimum license fee of two hundred dollars (\$200.00) per year. The applicant shall further comply in all respects with the provisions of chapter 13 of this Code or subsequent licensing ordinances pertaining to the payment of license fees. No dance permit shall be issued to the applicant unless the written approval of the chief administrative officer is presented to the division of revenue.
- (g) The permit issued under the terms of this section shall not be transferable. In case the permit applies to a corporation, a limited liability corporation, a partnership, or a limited liability company, a transfer of ownership of more than ten (10) percent interest in the corporation, partnership, or company shall cancel the permit.
- (h) The provisions of this section shall not apply to a nonprofit religious, charitable, benevolent, fraternal, or social organization which is recognized by the United States Internal Revenue Service as being exempt from federal taxation or to bona fide hotels which rent their facilities for private dances, provided the hotels are not engaged in promoting dances for their own profit beyond the charge made to organizations or individuals conducting private dances. For the purpose of this section "bona fide hotels" shall be construed as establishments wherein the chief business transacted is the renting of rooms to transient guests and the customary hotel accommodations and facilities.
- (i) The premises wherein dancing by patrons is permitted under the terms and provisions of this section shall be at all times reasonably and adequately lighted and the license shall be posted and at all times displayed in a conspicuous place in the room or principal room where dancing is permitted.
- (j) The dance permit may be renewed by filing a renewal application with the commissioner of public safety or his designee who shall not be required to re-inspect the premises pursuant to subsections (b), (c) and (d) above but shall determine whether the applicant otherwise continues to meet the requirements for a dance permit. The provisions of subsections (e) and (f) above shall apply to the renewal application.

- (k) Any person violating any of the provisions of this section or who, having been issued a permit hereunder, allows such business to operate in such a manner as to create a nuisance or to violate any of the provisions of this chapter or any law relating to the sale of alcoholic beverages shall, in addition to any other penalties prescribed by law, be fined in accordance with section 3-26(e).

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 246-97, § 2, 11-20-97; Ord. No. 47-99, § 7, 3-2-99; Ord. No. 86-2000, § 12, 4-13-00)

Sec. 3-23. Display of warning to minors.

It shall be the duty of every retail licensee to display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in 30-point or larger type, substantially as follows:

WARNING TO MINORS

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100.00) if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.
2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.
4. Use or attempt to use any false, fraudulent or altered identification card or document to purchase or attempt to purchase or otherwise obtaining any alcoholic beverages.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 13, 4-13-00)

Sec. 3-23.1. Permitting possession by minors prohibited.

- (1) No person being the owner or occupant or otherwise in possession or control of any property located within the urban county shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.
- (2) No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages.
- (3) It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.
- (4) As used in this section, the term "alcoholic beverages" shall have the meaning given to it in KRS 241.010.

(Ord. No. 51-87, § 1, 4-2-87; Ord. No. 86-2000, § 14, 4-13-00)

Cross reference— Minors obtaining alcoholic beverages, § 14-39.

Sec. 3-23.2. Congregating on certain ABC licensed premises and vacant premises prohibited.

- (1) No person or entity operating a package liquor store shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.

- (2) No person or entity being the owner or otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.
- (3) No persons shall congregate for the purposes, under the circumstances, or in the places proscribed in subsections (1) and (2) of this section.
- (4) It shall be a defense to any prosecution under subsection (1) or (2) if such licensed vendor or property owner shall permit the division of police to post and maintain a legible, painted or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.
- (5) As used in this section, the term:
 - (a) *Habitual* shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;
 - (b) *Package liquor store* shall mean a retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes;
 - (c) *Public nuisance* shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by, or the health, safety and welfare of the public; and
 - (d) *Vacant property* shall mean a vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

(Ord. No. 74-88, § 1, 4-21-88)

Sec. 3-23.3. Alcohol warning signs; drinking alcohol during pregnancy.

All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(Ord. No. 204-88, § 1, 9-8-88; Ord. No. 256-88, § 1, 11-3-88; Ord. No. 100-93, § 1, 6-17-93)

State law reference— Similar provisions, KRS 243.895.

Sec. 3-24. Lavatory facilities, where required.

All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-25. Inactive and dormant license renewal.

- (a) Any license under which no business is transacted for a period of forty-five (45) days shall be deemed inactive and shall be surrendered by the licensee or shall be revoked by the urban county administrator. Any licensee who has had its state alcoholic beverage license placed in dormancy shall, within three (3) days of the state granting its dormancy application, apply to place its urban county license in dormancy or shall immediately surrender its urban county license.

- (b) A licensee shall not be deemed to have transacted business for purposes of this section unless its gross sales of alcoholic beverages during any calendar month equal or exceed ten (10) percent of its gross sales of alcoholic beverages for the immediately preceding calendar year.
- (c) If a license becomes inactive under the provisions of this section because the licensee was unable to transact business on the licensed premises due to an act of God, casualty, act of eminent domain, landlords refusal to renew an existing lease for the premises, court action, or other similar and verifiable business reason, then the license may not be revoked if the licensee files an application with the urban county administrator to place the license in dormancy and the licensee otherwise satisfies the conditions for a dormant license. The application must be filed prior to the forty-fifth day on which no business is transacted under the license and shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00).
- (d) The urban county administrator may grant an application to place a license in dormancy if he determines that such status satisfies the business reasons identified in subsection (b).
- (e) A dormant license shall continue to be valid during the license period but no business shall be transacted under the license and no alcoholic beverages may be kept on the licensed premises. The dormant license shall be renewed in the same manner as an active license. A license may remain in dormancy for a maximum period of twelve (12) months from the date the dormant license application is granted. Each licensee shall be permitted to place a license in dormancy on only two (2) occasions.
- (f) A licensee may activate a dormant license by filing a written request with the urban county administrator. Activation may be granted if the licensee meets all state and local requirements to hold the license.

(Ord. No. 86-2000, § 15, 4-13-00)

Sec. 3-26. Penalties.

- (a) Any person who shall engage in or carry on, without a license, any business for which a license is provided by this chapter, or who, having had a license, shall continue in such business in any succeeding year without obtaining a renewal of his license, shall be guilty of a misdemeanor and shall be liable to be proceeded against for the penalty prescribed in subsection (b) in addition to the amount of the license.
- (b) Any person who shall violate any provisions of this chapter, other than those provisions specified in subsections (c) through (k) of this section, shall, for each offense, and upon conviction in the district court of the urban county government, be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or confined in the detention center for more than thirty (30) days, or both so fined and imprisoned. Each day of such violation shall constitute a separate offense.
- (c) Any person violating any of the provisions of section 3-20 shall, upon conviction thereof, be fined one hundred dollars (\$100.00) for each offense.
- (d) Any person, who, by himself or acting through another, directly or indirectly, violates any of the provisions of section 3-21 shall upon the first conviction thereof be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or imprisoned for not more than six (6) months or both; and for the second and each subsequent conviction he shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or imprisoned for not more than six (6) months, or both.
- (e) Any person violating any of the provisions of section 3-22 shall, upon conviction thereof, be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or

confined in the detention center not less than one (1) day nor more than thirty (30) days or both so fined and imprisoned; and the license issued to such person shall become null and void.

- (f) Any person violating any of the provisions of section 3-23 or section 3-23.3 shall, upon conviction thereof, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each offense.
- (g) Any person violating any of the provisions of section 3-23.1 shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and each day of such operation shall constitute a separate offense.
- (h) Any person violating any of the provisions of section 3-23.2 shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), and each day of such assembly shall constitute a separate offense.
- (i) Any person violating any of the provisions of section 3-24 by selling beer or liquor by the drink without providing lavatory facilities shall be fined not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00), and each day of such operation shall constitute a separate offense.
- (j) Any person violating the provision of section 3-27 shall, upon conviction thereof, be fined up to five hundred dollars (\$500.00) for each offense.
- (k) Any person violating the provisions of section 3-28 shall, upon conviction thereof, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each offense.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 51-87, § 2, 4-2-87; Ord. No. 74-88, § 2, 4-21-88; Ord. No. 204-88, § 2, 9-8-88; Ord. No. 79-97, §§ 1, 3, 5-29-97; Ord. No. 233-98, § 2, 8-27-98; Ord. No. 278-2003, § 2, 11-20-03; Ord. No. 282-2005, § 2, 10-6-05)

Sec. 3-27 Malt beverage keg registration.

- (a) For purposes of this section a "keg" is defined as a brewery-sealed individual container of malt beverage having a liquid capacity of six (6) or more gallons.
- (b) Each malt beverage retail licensee who sells malt beverages in kegs for consumption off the premises of the licensee shall:
 - (1) Affix a keg identification tag on all kegs at the time of sale;
 - (2) Require the purchaser of the keg to complete a keg registration form;
 - (3) Provide a copy of the completed keg registration form to the purchaser at the time of sale;
 - (4) Retain, maintain and produce the keg registration form in the same manner as the licensee is required by state law to keep, maintain, retain and produce alcoholic beverage records;
 - (5) Remove the keg identification tag when the keg is returned to the licensee; and
 - (6) If a keg is returned without the keg identification tag, within five (5) business days of the return date provide written notice of that fact to the office of the urban county alcoholic beverage control administrator by delivery or by regular, first-class mail.
- (c) The keg identification tag shall be furnished by the urban county administrator and shall be in a form prescribed by administrator. The keg identification tag shall consist of paper within a clear plastic coating, plastic, metal, or another durable material that is not easily destroyed. The keg identification tag shall be uniquely numbered to allow the keg to be traced and shall be affixed to the keg at the time of sale with nylon ties or cording, wire tires or other metal attachment devices, or another durable means of tying or attachment. The keg identification

- tag shall include a prominently visible warning that the intentional removal or obliteration of the tag is unlawful. The keg identification tag should be designed so that when affixed or attached to the keg it will not mar or otherwise physically damage the keg.
- (d) The keg registration form shall be in the form prescribed and furnished by the urban county administrator and shall contain the following:
- (1) The name and address of the purchaser, verified by an equivalent valid identification document;
 - (2) The purchaser's motor vehicle operator's number or the type and number of an equivalent identification document;
 - (3) A statement signed by the purchaser stating that:
 - a. The purchaser is twenty-one (21) years of age or older;
 - b. The purchaser does not intend to allow persons less than twenty-one (21) years of age to consume any of the malt beverages being purchased;
 - c. The purchaser will not intentionally remove or obliterate or knowingly permit the removal or obliteration of the keg identification tag; and
 - d. The purchaser will produce a copy of the keg registration form upon request of any law enforcement officer.
 - (4) The location or property address or addresses where the keg will be physically located and the contents consumed and the date or dates on which the contents will be consumed;
 - (5) The date of sale, the size of the keg, the keg identification number, the amount of the container deposit, if any, paid by the purchaser, and the name of the licensee's agent, servant or employee selling the keg; and
 - (6) A summary of the requirements of this section including the penalties for any violations of this section and the penalties for providing alcoholic beverages to a minor.
- (e) Any brewer, distributor or microbrewer who sells malt beverages in kegs to its employees for home consumption or to charitable or fraternal organizations holding group meetings, picnics or outings shall comply with the requirements of this section when the keg will be physically located or the contents consumed in the urban county.
- (f) Any person in possession of a keg that was purchased outside of the urban county shall comply with this section by:
- (1) Obtaining a keg identification tag from the urban county administrator within five (5) days of bringing the keg into Fayette County;
 - (2) Affixing the identification tag to the keg;
 - (3) Providing the urban county administrator with the information required to complete the keg registration form and sign the completed form; and
 - (4) Producing a copy of the keg registration form upon request of any law enforcement officer; and
 - (5) Removing the keg identification tag when the keg is returned to the licensee and, within five (5) business days of such removal, returning the identification tag to the office of the urban county alcoholic beverage control administrator.
- (g) It shall be unlawful:
- (1) To sell or offer for sale a keg without an affixed keg registration tag;
 - (2) To sell a keg without obtaining a completed keg registration form;
 - (3)

- Except as provided herein, for any person, other than a licensed retailer, brewer, distributor or microbrewer, to remove or obliterate a keg identification tag;
- (4) To knowingly provide false information on a keg registration form or to sign a keg registration form knowing the information contained in the form is false;
 - (5) For any person, other than a licensed retailer, brewer, distributor, transporter or microbrewer, to possess a keg without an affixed keg registration tag;
 - (6) Except for the five-day period in (f)(1) for kegs purchased outside Fayette County, for any person, other than a licensed retailer, brewer, distributor, transporter or microbrewer, to keep a keg at any place or places other than the location or property address or addresses identified on the keg registration form, except for transporting a keg to and from the licensed premises or between the locations or addresses identified on the keg registration form.
- (h) Any keg sold or kept in violation of this section may be confiscated by any law enforcement officer and, upon conviction of the seller or keeper thereof, the keg or any deposit paid to the retail licensee who sold the keg shall be forfeited to the urban county government.
 - (i) The urban county administrator may charge a reasonable fee for furnishing the keg identification tag and keg registration form, which fees shall be used to pay the costs of implementing and enforcing this section. The urban county administrator is authorized to promulgate reasonable regulations to implement the provisions of this section.

(Ord. No. 278-2003, § 1, 11-20-03)

Sec. 3-28. Beverage service training.

- (a) Any person who sells or serves alcoholic beverages in a licensed retail establishment or in any premise where alcoholic beverages are sold or served by the holder of a caterer's or special event license shall participate in and successfully complete a responsible beverage service training program meeting the requirements of subsection (e) below. The urban county administrator is authorized to determine whether a program satisfies the requirements of subsection (e), and upon the request of the licensee he will timely review a program to determine whether it satisfies these requirements. In the event the urban county administrator determines that a program fails to meet any of the requirements in subsection (e) below, he will notify the licensee of the non-satisfactory portion(s) of the program.
- (b) All persons who are required to complete training under subsection (a) above and who were not previously subject to the training requirement, shall complete the training within sixty (60) days of the date on which the person is employed or otherwise first subject to the training requirement.
- (c) Every licensee shall require every agent, servant or employee who sells or serves or is authorized to sell or serve alcoholic beverages on the licensed premises to complete a responsible beverage service training program meeting the requirements of subsection (e) below. Except for the sixty-day grace period in subsection (b) above, no licensee shall permit any person who has failed to successfully complete the mandatory training to sell or serve alcoholic beverages.
- (d) Every licensee shall maintain on the licensed premises a file containing the name, job description, date of employment or association with the licensee and proof of successful completion of a responsible beverage service training meeting the requirements of subsection (e) below for each agent, servant or employee of the licensee who sells or serves or is authorized to sell or serve alcoholic beverages. The licensee shall retain, maintain and produce the compliance file in the same manner as the licensee is required by state law to keep, maintain, retain and produce alcoholic beverage records;

- (e) A responsible beverage service training program must effectively train its participants in the following:
- (1) Applicable state statutes and regulations and local ordinances regarding the sale of alcoholic beverages. The urban county administrator will prepare and distribute to all licensees a list of the minimal statutes, regulations and ordinances that each agent, servant or employee of a licensee who sells or serves or is authorized to sell or serve alcoholic beverages should know. A signed statement from each such agent, servant or employee indicating that he or she is familiar with and understands the list of statutes, regulations and ordinances provided by the urban county administrator shall satisfy this aspect of training;
 - (2) Verification of age, forms of identification and methods of recognizing false or misleading age documents;
 - (3) The effect of alcohol on humans and the physiology of alcohol intoxication;
 - (4) Recognition of the signs or characteristics of alcohol intoxication;
 - (5) Strategies for intervention and preventing underage and intoxicated persons from consuming alcoholic beverages; and
 - (6) Potential liability for persons selling or serving alcoholic beverages.

(Ord. No. 282-2005, § 1, 10-6-05)

FOOTNOTE(S):

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Editor's note— Section 1 of Ord. No. 134-79, adopted May 31, 1979, repealed §§ 3-2—3-19, 3-22—3-25, derived from the original codification as amended by Ord. No. 3973, §§ 1, 2, adopted Dec. 13, 1959; Ord. No. 74-67, § 1, adopted Apr. 13, 1967; and Ord. No. 134-68, § 1, adopted June 15, 1978. Section 2 of Ord. No. 134-79 enacted new §§ 3-2—3-19, 3-22—3-25. ([Back](#))

State Law reference— Alcoholic beverages, KRS ch. 241 et seq. ([Back](#))

*Ref. to
New Years
Eve*

ORDINANCE NO. 405-2006

AN ORDINANCE AMENDING SUBSECTION 3-9.2(2) OF THE CODE OF ORDINANCES TO CHANGE THE TIME FROM 1:00 A.M. TO 2:00 A.M. ON MONDAY, JANUARY 1, OF THE FOLLOWING YEAR; AND CREATING SECTION 3-9.2(3) OF THE CODE OF ORDINANCES, TO PERMIT ANY PREMISES THAT HAS A VALID LICENSE FOR THE RETAIL SALE OF MALT BEVERAGES AND DISTILLED SPIRITS AND WINE RETAIL DRINK LICENSE TO SELL SAME BY THE DRINK IN THOSE YEARS IN WHICH NEW YEAR'S EVE (DECEMBER 31) FALLS ON A SUNDAY, FROM 1:00 P.M. UNTIL 12:00 A.M. ON SUNDAY, DECEMBER 31, AND FROM 12:00 A.M. UNTIL 2:00 A.M. ON MONDAY, JANUARY 1, OF THE FOLLOWING YEAR.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That subsection (2) of Section 3-9.2 of the Code of Ordinances by and hereby is amended to read as follows:

Sec. 3-9.2.

(2) Per KRS 244.290(3b), any premises for which there has been granted a malt beverage retailer's license and for distilled spirits and wine retail drink license shall be permitted to sell same by the drink in those years in which New Year's Eve (December 31) falls on a Sunday, from 1:00 p.m. until 12:00 a.m. on Sunday, December 31, and from 12:00 a.m. until 2:00 a.m. on Monday, January 1, of the following year.

Section 2 - That Section (3) of 3-9.2 of the Code of Ordinances be and hereby is created to read as follows:

(3) Any premises that has a license for the retail sale of malt beverages and for distilled spirits and wine retail drink license shall be permitted to sell same by the drink in those years in which New Year's Eve (December 31) falls on a Sunday, from 1:00 p.m. until 12:00 a.m. on Sunday, December 31, and from 12:00 a.m. until 2:00 a.m. on Monday, January 1, of the following year.

Section 3 - That this Ordinance shall become effective on the date of its passage.

This subsection does not include package liquor stores.

This ordinance shall take effect and be in force immediately upon its passage and publication as required by law.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of

competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

All ordinances in conflict herewith are hereby amended to the extent of such conflict.

PASSED URBAN COUNTY COUNCIL: December 18, 2006

/s/ Teresa Ann Issac
MAYOR

ATTEST:

/s/ Liz Damrell
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: December 21, 2006-1t

CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.

MCBRAYER, MCGINNIS, LESLIE & KINGLAND PLLC

James G. Amato
James G. Amato

Chapter 3 ALCOHOLIC BEVERAGES*

***Editor's note:** Section 1 of Ord. No. 134-79, adopted May 31, 1979, repealed §§ 3-2--3-19, 3-22--3-25, derived from the original codification as amended by Ord. No. 3973, §§ 1, 2, adopted Dec. 13, 1959; Ord. No. 74-67, § 1, adopted Apr. 13, 1967; and Ord. No. 134-68, § 1, adopted June 15, 1978. Section 2 of Ord. No. 134-79 enacted new §§ 3-2--3-19, 3-22--3-25.

State law references: Alcoholic beverages, KRS ch. 241 et seq.

- Sec. 3-1. Definitions.
- Sec. 3-2. Office of urban county alcoholic beverage control administrator--Qualifications.
- Sec. 3-3. Same--Powers.
- Sec. 3-4. Same--Bond.
- Sec. 3-5. Same--Function.
- Sec. 3-6. Same--Appeals.
- Sec. 3-7. License applications--Procedure.
- Sec. 3-8. Same--Transfer or assignment.
- Sec. 3-9. Distilled spirits and wine--Special private club license.
- Sec. 3-9.1. Same--Hotels, motels, convention centers, restaurants, commercial airports license for Sunday sale.
- Sec. 3-9.2. Sunday malt beverage retailer's license for hotels, motels, convention centers, restaurants and commercial airports.
- Sec. 3-9.3. Extended hours supplemental license for convention centers, race tracks and commercial airports.
- Sec. 3-10. License revocation or suspension--Powers of board.
- Sec. 3-11. Same--Effect.
- Sec. 3-12. Distilled spirits and wine license fees.
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- Sec. 3-23. Display of warning to minors.
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- Sec. 3-23.2. Congregating on certain ABC licensed premises and vacant premises prohibited.
- Sec. 3-23.3. Alcohol warning signs; drinking alcohol during pregnancy.
- Sec. 3-24. Lavatory facilities, where required.
- Sec. 3-25. Reserved.
- Sec. 3-26. Penalties.
- Sec. 3-27. Malt beverage keg registration.

Sec. 3-1. Definitions.

The words and terms used in this chapter specifying the kinds of licenses shall have the same meanings as in those parts of the Kentucky Revised Statutes applying to the licenses provided herein.

Sec. 3-2. Office of urban county alcoholic beverage control administrator--Qualifications.

There is created an office of urban county alcoholic beverage control administrator. The urban

county administrator and such investigators and clerks as are deemed necessary for the proper conduct of his office shall be appointed by the mayor. The urban county administrator shall take the oath prescribed in section 228 of the Kentucky Constitution before entering upon such duties.

(Ord. No. 134-79, § 2, 5-31-79)

Cross references: Appointment, salary, benefits for alcoholic beverage control administrator, § 22-47.

Sec. 3-3. Same--Powers.

(a) The urban county administrator and his investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the urban county government.

(b) The urban county administrator, and his investigators, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-4. Same--Bond.

(a) Before entering upon his duties, the urban county administrator shall execute a bond with a good corporate security in the penal sum of not less than one thousand dollars (\$1,000.00).

(b) The urban county administrator may require any employee under his supervision to execute a similar bond in such penal sum as he deems necessary.

(c) The cost of the bonds given under this section shall be borne by the urban county government.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-5. Same--Function.

The functions of the urban county administrator shall be the same with respect to urban county licenses and regulations as the functions of the alcoholic beverage control board with respect to state licenses and regulations, except that no regulations adopted by the urban county administrator may be less stringent than the statutes relating to alcoholic beverage control or than the regulations of the board.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 1, 4-13-00)

Sec. 3-6. Same--Appeals.

Appeals from the orders of the urban county administrator may be taken as prescribed by law.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-7. License applications--Procedure.

(a) Each person, before applying to the state alcoholic beverage control board under the provisions of KRS chapter 243, to do business in the urban county shall first apply to and obtain

approval of the urban county administrator for an urban county license to do business; and no person shall engage in any business for which a license is provided under this section without first obtaining such license. Such licenses shall conform in their provisions and the business authorized to kindred state licenses.

(b) Such application for an urban county license shall be written and verified, shall contain the information required by the provisions of KRS 243.390, and shall otherwise comply with all provisions of law.

(c) The urban county administrator shall either approve or disapprove of any such application in accordance with the law.

(d) Upon approval of any such application, the applicant shall pay the amount of the license fee provided in this chapter, within the time prescribed in this chapter, to the commissioner of finance, who shall issue the license.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-8. Same--Transfer or assignment.

The urban county administrator may permit the transfer or assignment of any license issued under this chapter to another person or premises under the same terms and conditions as provided by statute.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-9. Distilled spirits and wine--Special private club license.

(a) Any applicant for a special private club license shall be required, as a condition precedent to obtaining such a license, to show to the satisfaction of the urban county administrator that it is a nonprofit social, fraternal, military or political organization or club, which for more than one (1) year prior to the date of filing such application has maintained and operated a club room or rooms within the urban county from which the general public is excluded.

(b) This license shall authorize the licensee to exercise the privilege of a malt beverage or a distilled spirits and wine retail drink licensee, or both, at the designated premises if the general public is excluded. All restrictions and prohibitions applying to a malt beverage and a distilled spirits and wine retail drink licensee shall apply to a special private club licensee.

(c) A special private club license may be issued by the urban county administrator, the fee for which shall be three hundred dollars (\$300.00) per annum.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 2, 4-13-00)

Sec. 3-9.1. Same--Hotels, motels, convention centers, restaurants, commercial airports license for Sunday sale.

(1) Hotels, motels, convention centers, restaurants and commercial airports which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty (50) percent or more of gross annual income from dining facilities by the sale of food may apply for a special Sunday sale retail drink license.

(2) Any premises for which there has been granted a special Sunday sale retail drink license shall be permitted to sell distilled spirits and wine by the drink on Sunday from 1:00 p.m. until 11:00 p.m.

(Ord. No. 127-86, § 5, 7-17-86)

Editor's note: Ord. No. 127-86, adopted July 17, 1986, was approved at an election held Nov. 4, 1986.

Sec. 3-9.2. Sunday malt beverage retailer's license for hotels, motels, convention centers, restaurants and commercial airports.

(1) Hotels, motels, convention centers, restaurants and commercial airports which are licensed for the retail sale of malt beverages and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty (50) percent or more of gross annual income from dining facilities by the sale of food may apply for a special Sunday malt beverage retailer's license.

(2) Any premises for which there has been granted a special Sunday malt beverage retailer's license shall be permitted to sell malt beverages by the drink on Sunday from 1:00 p.m. until 11:00 p.m. Any premises for which there has been granted a special Sunday malt beverage retailer's license shall be permitted to sell malt beverages by the drink in those years in which New Year's Eve (December 31) falls on a Sunday, from 1:00 p.m. until 12:00 a.m. on Sunday, December 31, and from 12:00 a.m. until 1:00 a.m. on Monday, January 1, of the following year.

(Ord. No. 6-87, § 1, 1-8-87; Ord. No. 291-95, § 1, 12-7-95)

Sec. 3-9.3. Extended hours supplemental license for convention centers, race tracks and commercial airports.

(1) Convention centers, race tracks and commercial airports which have secured an extended hours supplemental license from the state alcoholic beverage control board may apply for a special extended hours supplemental license.

(2) Any convention center or horse race track for which there has been granted a special extended hours supplemental license shall be permitted to sell distilled spirits and wine by the drink from 12:00 a.m. until 2:30 a.m. and from 7:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 2:30 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday. Any such convention center or horse race track may sell malt beverages by the drink from 12:00 a.m. until 2:30 a.m. and from 6:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 2:30 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday.

(3) Any commercial airport for which there has been granted a special extended hours supplemental license shall be permitted to sell distilled spirits and wine by the drink from 12:00 a.m. until 4:00 a.m. and from 7:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 4:00 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday. Any such airport may sell malt beverages by the drink from 12:00 a.m. until 4:00 a.m. and from 6:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 4:00 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday.

(Ord. No. 4-87, § 1, 1-8-87; Ord. No. 95-2004, § 2, 5-13-04)

Sec. 3-10. License revocation or suspension--Powers of board.

The urban county administrator shall have the same powers and duties with respect to suspension and revocation of licenses granted under this chapter as the state alcoholic beverage control board has with respect to licenses granted under KRS chapter 243 in addition to any other powers and duties granted to or imposed upon him by ordinance.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-11. Same--Effect.

Upon revocation of any license issued under this chapter, the licensee shall not thereafter be granted a license under this chapter within two (2) years next after such revocation; and on any such revocation, the urban county administrator, in his discretion, may order that no other license be issued to anyone to conduct in the same premises any business required to be licensed by this chapter within two (2) years next after the revocation of such license.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-12. Distilled spirits and wine license fees.

The following kinds of distilled spirits and wine licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Distiller's license, per annum . . . \$ 500.00
- (2) Rectifier's license, per annum . . . 3,000.00
- (3) Blender's license, per annum . . . 3,000.00
- (4) Wholesaler's license, per annum . . . 3,000.00
- (5) Retail package license, per annum . . . 1,000.00
- (6) Retail drink, motel drink, airport drink, restaurant drink or supplemental bar license, per annum . . . 1,000.00
- (7) Special temporary liquor license per event . . . 166.66
- (8) Restaurant wine license, per annum:
 - (a) New applicants . . . 600.00
 - (b) Renewals . . . 400.00
- (9) Special Sunday sale retail drink license, per annum . . . 300.00
- (10) Special temporary wine license, per event . . . 50.00
- (11) Special temporary auction license, per event . . . 200.00
- (12) Nonresident special agent or solicitor's license, per annum . . . 40.00
- (13) Bottling house or wine storage license, per annum . . . 1,000.00
- (14) Souvenir retail liquor license, per annum . . . 1,000.00

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 127-86, § 5, 7-17-86; Ord. No. 86-2000, § 3, 4-13-00; Ord. No. 26-2004, § 1, 2-5-04)

Note: See the editor's note to § 3-9.1.

Sec. 3-13. Malt beverage license fees.

The following kinds of malt beverage licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Brewer's license, per annum . . . \$500.00
- (2) Microbrewery license, per annum . . . 500.00
- (3) Distributor's license, per annum . . . 400.00
- (4) Retailer's license, per annum . . . 200.00
- (5) Special temporary license, per event . . . 25.00
- (6) Special Sunday malt beverage retailer's license, per annum . . . 125.00
- (7) Brew-on-premises license, per annum . . . 100.00

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 6-87, § 1, 1-8-87; Ord. No. 86-2000, § 4, 4-13-00; Ord. No. 26-2004, § 2, 2-5-04)

Sec. 3-13.1. Special convention center, extended hours, and horse race track license.

The following kinds of special licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Convention center license, per annum . . . \$2,000.00
- (2) Extended hours supplemental license, per annum . . . 2,000.00
- (3) Horse race track license, per annum . . . 2,000.00
- (4) Caterer's license, per annum . . . 800.00
- (5) Riverboat license, per annum . . . 1,200.00
- (6) Automobile race track license, per annum . . . 2,000.00

All restrictions and prohibitions applying to regular retail drink distilled spirits and wine licenses and retail malt beverage licenses shall apply to the special licenses established in this section, unless otherwise provided by law.

(Ord. No. 65-85, § 1, 4-4-85; Ord. No. 4-87, § 1, 1-8-87; Ord. No. 86-2000, § 5, 4-13-00; Ord. No. 26-2004, § 3, 2-5-04)

Sec. 3-14. License period; time of payment; delinquency.

(a) The license period for all forms of alcoholic beverage licenses shall conform to the period covered by kindred licenses issued by the state; and such licenses, other than special temporary licenses, when issued, shall be valid for a period of no more than one (1) year. All licenses shall expire on the thirtieth day of June of each year until a renewal system with staggered dates has been implemented by the urban county administrator.

(b) The annual license renewal fees provided in this chapter shall be paid on or before the tenth day of July of each year or, after the implementation of a renewal system with staggered dates, within ten (10) days after the expiration date and any person holding any form of such license who fails to pay the license fees by said date shall be subject to a revocation of such license and in addition shall pay a penalty of ten (10) percent of the amount of the annual license renewal fee if the license is subsequently renewed.

(c) The license fees of any person entering upon any of the businesses required by this chapter to be licensed shall be due and payable at the time of their entering upon any of such businesses and if not paid within ten (10) days after they become due shall be deemed delinquent and shall have added thereto a penalty of ten (10) percent of the license tax.

(d) Persons delinquent in their payment of any license fees imposed upon them by this chapter shall be proceeded against and subjected to revocation of license and to additional penalty as provided in section 3-26.

(e) Until a renewal system with staggered dates is implemented, when any person applies for a license authorized to be issued under this chapter after July 1 of any year or for a new license after the implementation of a renewal system with staggered dates, he shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 6, 4-13-00)

Sec. 3-15. Disposition of license fees.

All money derived from the collection of license fees or the forfeiture of bonds, pursuant to this chapter, shall be paid into and become part of the general fund of the urban county government.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-16. License to contain certain information.

There shall be stamped or printed on the face of each license issued pursuant to this chapter the type of license issued, such as "Retail Beer," "Retail Package Liquor" and so forth, together with the words "License period shall be July 1 through June 30," and the year to be covered by such license, or, in the case of special temporary licenses and after the implementation of a renewal system with staggered dates, the precise dates covered by the license.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 7, 4-13-00)

Sec. 3-17. License to be displayed.

(a) Before commencing or doing any business for the time for which a license has been issued, all licenses issued under this chapter shall be posted and at all times displayed in a conspicuous place in the room or principal room where the business is carried on, so that all persons visiting the place may readily see the license.

(b) No licensee shall post the license or permit it to be posted upon premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(c) Whenever a license is lost or destroyed, a duplicate license shall be issued upon proof of loss satisfactory to the urban county administrator and upon the payment of a fee of twenty-five dollars (\$25.00).

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 8, 4-13-00)

Sec. 3-18. Sales only at place specified in license.

No license issued pursuant to this chapter shall authorize the sale of alcoholic beverages of any kind at more than one (1) place, which shall be specified in the license; and a separate license must be taken out for each place in which any alcoholic beverages are proposed to be sold.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-19. Sales to be in public view.

The entrance of any premises for which a retail license has been issued shall be of clear glass and permit an unobstructed view. The premises shall be so erected and maintained as to furnish a clear view of the premises from the sidewalk, or, if the premises are not on the street level, from the entrance. No partition, box, stall, screen, curtain, or other device shall obstruct the view or the general observation of persons, but partitions, subdivisions, or panels that are not higher than forty-eight (48) inches from the floor shall not be construed as obstructing the view or the general observation of persons.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 9, 4-13-00)

Sec. 3-20. Delivery hours for malt beverages.

(a) It shall be unlawful for any distributor, wholesaler or manufacturer of malt beverages or for any agent or employee thereof to deliver any malt beverages in the urban county between the hours of 12:00 midnight on Saturday and 6:00 a.m. on the succeeding Monday. The word "deliver" as used herein shall include the transfer of actual possession of malt beverages whether the same be sold, bartered, loaned or transferred in any manner, by a distributor, wholesaler or manufacturer, or by any agent or employee thereof.

(b) It shall be unlawful for any person, either for private use or for the purpose of sale, to receive from any distributor, wholesaler or manufacturer of malt beverages, or from any agent or employee thereof, malt beverages between the hours of 12:00 midnight on Saturday and 6:00 a.m. on the succeeding Monday.

(Ord. No. 105-68, § 1, 5-2-68; Ord. No. 86-2000, § 10, 4-13-00)

State law references: See KRS 244.480.

Sec. 3-21. Business hours.

(a) A premises for which there has been granted a license for the sale of distilled spirits and wine shall not be permitted to remain open for any purpose between 12:00 a.m. and 7:00 a.m. on Monday or between 2:30 a.m. and 7:00 a.m. on any day from Tuesday through Saturday or at any time after 2:30 a.m. on a Sunday, unless a license authorizing different hours has been issued.

(b) A premises for which there has been granted a license for the sale of malt beverages shall not be permitted to remain open for any purpose between 12:00 a.m. and 6:00 a.m. on Monday or between 2:30 and 6:00 a.m. on any day from Tuesday through Saturday or at any time after 2:30 a.m. on a Sunday, unless a license authorizing different hours has been issued.

(c) A premises for which there has been granted a license for the sale of distilled spirits and wine or malt beverages shall not be permitted to remain open for any purpose on an election day during the hours the polls are open.

(d) If a licensee provides a separate locked department within his licensed premises capable

of being locked and closed off, within which is kept all stocks of distilled spirits and wine and all stocks of malt beverages, and such department is kept locked during the times mentioned above in (a) for distilled spirits and wine and in (b) for malt beverages, it shall be deemed to have complied with this section.

(e) The term "locked department" shall include all display windows, show cases, shelves, and counters. In no event shall the shelves and counters be left open, but shall have a door affixed thereto, and the storeroom, display windows, show cases, shelves and counters shall be under lock and key. The "door" may be sliding or affixed with hinges and may be glass, wood, or wire netting of not more than one (1) inch mesh.

A separate locked department will be deemed to exist if the licensee uses a register or computerized check-out system that prohibits the sale of alcoholic beverages and the licensee physically conceals or covers all stocks of alcoholic beverages during the times the licensee is not permitted to remain open.

(f) A licensee shall not sell, give away, or deliver any alcoholic beverage or permit any alcoholic beverage to be sold, given away, or delivered on the licensed premises during the hours it is not permitted to remain open. A licensee shall not permit the consumption of alcoholic beverages on the licensed premises for a period of more than thirty (30) minutes after the hour it is to close for business or to stop selling and delivering alcoholic beverages.

(Ord. No. 105-68, § 1, 5-2-86; Ord. No. 127-86, § 5, 7-17-86; Ord. No. 4-87, § 1, 1-8-87; Ord. No. 5-87, § 1, 1-8-87; Ord. No. 86-2000, § 11, 4-13-00; Ord. No. 314-2001, § 1, 12-13-01; Ord. No. 13-2002, § 1, 1-24-02; Ord. No. 95-2004, § 1, 5-13-04)

Sec. 3-22. Dancing where beverages sold; permits, regulations.

(a) No person operating a business wherein alcoholic beverages are sold shall allow dancing on the premises by patrons without first obtaining the permit and paying the license fee as herein prescribed.

(b) A permit shall be obtained by filing an application with the commissioner of public safety or his designee who shall cause inspections, by the divisions of fire and emergency services and building inspection, to be made of the premises for which an application has been made to allow dancing. No permit shall be issued by the commissioner of public safety unless all the ordinances and laws mentioned in subsections (c) and (d) of this section are being fully complied with and the licensee holds all licenses required by chapter 3 of this code.

(c) The chief of the division of fire and emergency services or his designee shall inspect the premises for which an application has been made to allow dancing under the terms of this section to determine whether the premises and the structures located thereon comply with all the requirements of the existing fire prevention ordinances of the urban county government, including the standards of safety adopted by the urban county government and all other laws relative to fire prevention. The chief of the division of fire and emergency services or his designee shall identify those portions of the premises where dancing is allowed and the maximum number of persons allowed in that portion of the premises where dancing is allowed; and in fixing the maximum number of persons he shall give due consideration to the type of activity for which the permit is sought.

(d) The director of the division of building inspection or his designee shall inspect the premises for which an application has been made to allow dancing under the terms of this section to ascertain whether the premises conform in all respects to the ordinances and codes relating to the structures on such premises. The director of the division of building inspection shall further ascertain whether, under the zoning ordinances of the urban county government, dancing is allowed at the location for which the permit is sought.

(e) The commissioner of public safety shall, within sixty (60) days from receipt of an

application for a dance permit, submit to the chief administrative officer, his recommendation for the grant or denial of the permit. If the commissioner of public safety recommends that the permit should be denied then his recommendation shall be accompanied by a written report setting forth why the permit should not be issued. It shall be the duty of the chief administrative officer to review the recommendation and report a nd to approve or disapprove the application.

(f) The applicant, prior to allowing dancing by its patrons, if the application is approved by the chief administrative officer and issued by the commissioner of public safety, shall pay to the urban county government through the division of revenue a minimum license fee of two hundred dollars (\$200.00) per year. The applicant shall further comply in all respects with the provisions of chapter 13 of this Code or subsequent licensing ordinances pertaining to the payment of license fees. No dance permit shall be issued to the applicant unless the written approval of the chief administrative officer is presented to the division of revenue.

(g) The permit issued under the terms of this section shall not be transferable. In case the permit applies to a corporation, a limited liability corporation, a partnership, or a limited liability company, a transfer of ownership of more than ten (10) percent interest in the corporation, partnership, or company shall cancel the permit.

(h) The provisions of this section shall not apply to a nonprofit religious, charitable, benevolent, fraternal, or social organization which is recognized by the United States Internal Revenue Service as being exempt from federal taxation or to bona fide hotels which rent their facilities for private dances, provided the hotels are not engaged in promoting dances for their own profit beyond the charge made to organizations or individuals conducting private dances. For the purpose of this section "bona fide hote ls" shall be construed as establishments wherein the chief business transacted is the renting of rooms to transient guests and the customary hotel accommodations and facilities.

(i) The premises wherein dancing by patrons is permitted under the terms and provisions of this section shall be at all times reasonably and adequately lighted and the license shall be posted and at all times displayed in a conspicuous place in the room or principal room where dancing is permitted.

(j) The dance permit may be renewed by filing a renewal application with the commissioner of public safety or his designee who shall not be required to re-inspect the premises pursuant to subsections (b), (c) and (d) above but shall determine whether the applicant otherwise continues to meet the requirements for a dance permit. The provisions of subsections (e) and (f) above shall apply to the renewal application.

(k) Any person violating any of the provisions of this section or who, having been issued a permit hereunder, allows such business to operate in such a manner as to create a nuisance or to violate any of the provisions of this chapter or any law relating to the sale of alcoholic beverages shall, in addition to any other penalties prescribed by law, be fined in accordance with section 3-26(e).

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 246-97, § 2, 11-20-97; Ord. No. 47-99, § 7, 3-2-99; Ord. No. 86-2000, § 12, 4-13-00)

Sec. 3-23. Display of warning to minors.

It shall be the duty of every retail licensee to display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in 30-point or larger type, substantially as follows:

WARNING TO MINORS

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars

(\$100.00) if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.
2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.
4. Use or attempt to use any false, fraudulent or altered identification card or document to purchase or attempt to purchase or otherwise obtaining any alcoholic beverages.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 13, 4-13-00)

Sec. 3-23.1. Permitting possession by minors prohibited.

- (1) No person being the owner or occupant or otherwise in possession or control of any property located within the urban county shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.
- (2) No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages.
- (3) It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.
- (4) As used in this section, the term "alcoholic beverages" shall have the meaning given to it in KRS 241.010.

(Ord. No. 51-87, § 1, 4-2-87; Ord. No. 86-2000, § 14, 4-13-00)

Cross references: Minors obtaining alcoholic beverages, § 14-39.

Sec. 3-23.2. Congregating on certain ABC licensed premises and vacant premises prohibited.

- (1) No person or entity operating a package liquor store shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.
- (2) No person or entity being the owner or otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.
- (3) No persons shall congregate for the purposes, under the circumstances, or in the places proscribed in subsections (1) and (2) of this section.
- (4) It shall be a defense to any prosecution under subsection (1) or (2) if such licensed vendor or property owner shall permit the division of police to post and maintain a legible, painted or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.
- (5) As used in this section, the term:

- (a) *Habitual* shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;
- (b) *Package liquor store* shall mean a retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes;
- (c) *Public nuisance* shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by, or the health, safety and welfare of the public; and
- (d) *Vacant property* shall mean a vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

(Ord. No. 74-88, § 1, 4-21-88)

Sec. 3-23.3. Alcohol warning signs; drinking alcohol during pregnancy.

All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(Ord. No. 204-88, § 1, 9-8-88; Ord. No. 256-88, § 1, 11-3-88; Ord. No. 100-93, § 1, 6-17-93)

State law references: Similar provisions, KRS 243.895.

Sec. 3-24. Lavatory facilities, where required.

All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-25. Inactive and dormant license renewal.

(a) Any license under which no business is transacted for a period of forty-five (45) days shall be deemed inactive and shall be surrendered by the licensee or shall be revoked by the urban county administrator. Any licensee who has had its state alcoholic beverage license placed in dormancy shall, within three (3) days of the state granting its dormancy application, apply to place its urban county license in dormancy or shall immediately surrender its urban county license.

(b) A licensee shall not be deemed to have transacted business for purposes of this section unless its gross sales of alcoholic beverages during any calendar month equal or exceed ten (10) percent of its gross sales of alcoholic beverages for the immediately preceding calendar year.

(c) If a license becomes inactive under the provisions of this section because the licensee was unable to transact business on the licensed premises due to an act of God, casualty, act of eminent domain, landlords refusal to renew an existing lease for the premises, court action, or other similar and verifiable business reason, then the license may not be revoked if the licensee files an application with the urban county administrator to place the license in dormancy and the

licensee otherwise satisfies the conditions for a dormant license. The application must be filed prior to the forty-fifth day on which no business is transacted under the license and shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00).

(d) The urban county administrator may grant an application to place a license in dormancy if he determines that such status satisfies the business reasons identified in subsection (b).

(e) A dormant license shall continue to be valid during the license period but no business shall be transacted under the license and no alcoholic beverages may be kept on the licensed premises. The dormant license shall be renewed in the same manner as an active license. A license may remain in dormancy for a maximum period of twelve (12) months from the date the dormant license application is granted. Each licensee shall be permitted to place a license in dormancy on only two (2) occasions.

(f) A licensee may activate a dormant license by filing a written request with the urban county administrator. Activation may be granted if the licensee meets all state and local requirements to hold the license.

(Ord. No. 86-2000, § 15, 4-13-00)

Sec. 3-26. Penalties.

(a) Any person who shall engage in or carry on, without a license, any business for which a license is provided by this chapter, or who, having had a license, shall continue in such business in any succeeding year without obtaining a renewal of his license, shall be guilty of a misdemeanor and shall be liable to be proceeded against for the penalty prescribed in subsection (b) in addition to the amount of the license.

(b) Any person who shall violate any provisions of this chapter, other than those provisions specified in subsections (c) through (j) of this section, shall, for each offense, and upon conviction in the district court of the urban county government, be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or confined in the detention center for more than thirty (30) days, or both so fined and imprisoned. Each day of such violation shall constitute a separate offense.

(c) Any person violating any of the provisions of section 3-20 shall, upon conviction thereof, be fined one hundred dollars (\$100.00) for each offense.

(d) Any person, who, by himself or acting through another, directly or indirectly, violates any of the provisions of section 3-21 shall upon the first conviction thereof be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or imprisoned for not more than (6) months or both; and for the second and each subsequent conviction he shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or imprisoned for not more than six (6) months, or both.

(e) Any person violating any of the provisions of section 3-22 shall, upon conviction thereof, be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or confined in the detention center not less than one (1) day nor more than thirty (30) days or both so fined and imprisoned; and the license issued to such person shall become null and void.

(f) Any person violating any of the provisions of section 3-23 or section 3-23.3 shall, upon conviction thereof, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each offense.

(g) Any person violating any of the provisions of section 3-23.1 shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and each day of such operation shall constitute a separate offense.

(h) Any person violating any of the provisions of section 3-23.2 shall be fined not less than

fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), and each day of such assembly shall constitute a separate offense.

(i) Any person violating any of the provisions of section 3-24 by selling beer or liquor by the drink without providing lavatory facilities shall be fined not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00), and each day of such operation shall constitute a separate offense.

(j) Any person violating the provision of section 3-27 shall, upon conviction thereof, be fined up to five hundred dollars (\$500.00) for each offense.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 51-87, § 2, 4-2-87; Ord. No. 74-88, § 2, 4-21-88; Ord. No. 204-88, § 2, 9-8-88; Ord. No. 79-97, §§ 1, 3, 5-29-97; Ord. No. 233-98, § 2, 8-27-98; Ord. No. 278-2003, § 2, 11-20-03)

Sec. 3-27 Malt beverage keg registration.

(a) For purposes of this section a "keg" is defined as a brewery-sealed individual container of malt beverage having a liquid capacity of six (6) or more gallons.

(b) Each malt beverage retail licensee who sells malt beverages in kegs for consumption off the premises of the licensee shall:

- (1) Affix a keg identification tag on all kegs at the time of sale;
- (2) Require the purchaser of the keg to complete a keg registration form;
- (3) Provide a copy of the completed keg registration form to the purchaser at the time of sale;
- (4) Retain, maintain and produce the keg registration form in the same manner as the licensee is required by state law to keep, maintain, retain and produce alcoholic beverage records;
- (5) Remove the keg identification tag when the keg is returned to the licensee; and
- (6) If a keg is returned without the keg identification tag, within five (5) business days of the return date provide written notice of that fact to the office of the urban county alcoholic beverage control administrator by delivery or by regular, first-class mail.

(c) The keg identification tag shall be furnished by the urban county administrator and shall be in a form prescribed by administrator. The keg identification tag shall consist of paper within a clear plastic coating, plastic, metal, or another durable material that is not easily destroyed. The keg identification tag shall be uniquely numbered to allow the keg to be traced and shall be affixed to the keg at the time of sale with nylon ties or cording, wire ties or other metal attachment devices, or another durable means of tying or attachment. The keg identification tag shall include a prominently visible warning that the intentional removal or obliteration of the tag is unlawful. The keg identification tag should be designed so that when affixed or attached to the keg it will not mar or otherwise physically damage the keg.

(d) The keg registration form shall be in the form prescribed and furnished by the urban county administrator and shall contain the following:

- (1) The name and address of the purchaser, verified by an equivalent valid identification document;
- (2) The purchaser's motor vehicle operator's number or the type and number of an equivalent identification document;
- (3) A statement signed by the purchaser stating that:

- a. The purchaser is twenty-one (21) years of age or older;
 - b. The purchaser does not intend to allow persons less than twenty-one (21) years of age to consume any of the malt beverages being purchased;
 - c. The purchaser will not intentionally remove or obliterate or knowingly permit the removal or obliteration of the keg identification tag; and
 - d. The purchaser will produce a copy of the keg registration form upon request of any law enforcement officer.
- (4) The location or property address or addresses where the keg will be physically located and the contents consumed and the date or dates on which the contents will be consumed;
- (5) The date of sale, the size of the keg, the keg identification number, the amount of the container deposit, if any, paid by the purchaser, and the name of the licensee's agent, servant or employee selling the keg; and
- (6) A summary of the requirements of this section including the penalties for any violations of this section and the penalties for providing alcoholic beverages to a minor.
- (e) Any brewer, distributor or microbrewer who sells malt beverages in kegs to its employees for home consumption or to charitable or fraternal organizations holding group meetings, picnics or outings shall comply with the requirements of this section when the keg will be physically located or the contents consumed in the urban county.
- (f) Any person in possession of a keg that was purchased outside of the urban county shall comply with this section by:
- (1) Obtaining a keg identification tag from the urban county administrator within five (5) days of bringing the keg into Fayette County;
 - (2) Affixing the identification tag to the keg;
 - (3) Providing the urban county administrator with the information required to complete the keg registration form and sign the completed form; and
 - (4) Producing a copy of the keg registration form upon request of any law enforcement officer; and
 - (5) Removing the keg identification tag when the keg is returned to the licensee and, within five (5) business days of such removal, returning the identification tag to the office of the urban county alcoholic beverage control administrator.
- (g) It shall be unlawful:
- (1) To sell or offer for sale a keg without an affixed keg registration tag;
 - (2) To sell a keg without obtaining a completed keg registration form;
 - (3) Except as provided herein, for any person, other than a licensed retailer, brewer, distributor or microbrewer, to remove or obliterate a keg identification tag;
 - (4) To knowingly provide false information on a keg registration form or to sign a keg registration form knowing the information contained in the form is false;
 - (5) For any person, other than a licensed retailer, brewer, distributor, transporter or microbrewer, to possess a keg without an affixed keg registration tag;
 - (6) Except for the five-day period in (f)(1) for kegs purchased outside Fayette County, for any person, other than a licensed retailer, brewer, distributor, transporter or microbrewer, to keep a keg at any place or places other than the location or property address or addresses identified on the keg registration form, except for transporting a

keg to and from the licensed premises or between the locations or addresses identified on the keg registration form.

(h) Any keg sold or kept in violation of this section may be confiscated by any law enforcement officer and, upon conviction of the seller or keeper thereof, the keg or any deposit paid to the retail licensee who sold the keg shall be forfeited to the urban county government.

(i) The urban county administrator may charge a reasonable fee for furnishing the keg identification tag and keg registration form, which fees shall be used to pay the costs of implementing and enforcing this section. The urban county administrator is authorized to promulgate reasonable regulations to implement the provisions of this section.

(Ord. No. 278-2003, § 1, 11-20-03)

Attn. Sara
Passed
12/18/06

ORDINANCE NO. _____

AN ORDINANCE AMENDING SUBSECTION 3-9.2(2) OF THE CODE OF ORDINANCES TO CHANGE THE TIME FROM 1:00 A.M. TO 2:00 A.M. ON MONDAY, JANUARY 1, OF THE FOLLOWING YEAR; AND CREATING SECTION 3-9.2(3) OF THE CODE OF ORDINANCES, TO PERMIT ANY PREMISES THAT HAS A VALID LICENSE FOR THE RETAIL SALE OF MALT BEVERAGES AND DISTILLED SPIRITS AND WINE RETAIL DRINK LICENSE TO SELL SAME BY THE DRINK IN THOSE YEARS IN WHICH NEW YEAR'S EVE (DECEMBER 31) FALLS ON A SUNDAY, FROM 1:00 P.M. UNTIL 12:00 A.M. ON SUNDAY, DECEMBER 31, AND FROM 12:00 A.M. UNTIL 2:00 A.M. ON MONDAY, JANUARY 1, OF THE FOLLOWING YEAR.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That subsection (2) of Section 3-9.2 of the Code of Ordinances by and hereby is amended to read as follows:

Sec. 3-9.2.

(2) Per KRS 244.290(3b), any premises for which there has been granted a malt beverage retailer's license and for distilled spirits and wine retail drink license shall be permitted to sell same by the drink in those years in which New Year's Eve (December 31) falls on a Sunday, from 1:00 p.m. until 12:00 a.m. on Sunday, December 31, and from 12:00 a.m. until 2:00 a.m. on Monday, January 1, of the following year.

Section 2 - That Section (3) of 3-9.2 of the Code of Ordinances be and hereby is created to read as follows:

(3) Any premises that has a license for the retail sale of malt beverages and for distilled spirits and wine retail drink license shall be permitted to sell same by the drink in those years in which New Year' Eve (December 31) falls on a Sunday, from 1:00 p.m. until 12:00 a.m. on Sunday, December 31, and from 12:00 a.m. until 2:00 a.m. on Monday, January 1, of the following year.

Section 3 - That this Ordinance shall become effective on the date of its

This su :tion does not include package uor
stores.

This ordinance shall take effect and be in force immediately upon its
passage and publication as required by law.

If any section, subsection, sentence, clause, phrase, or portion of this
ordinance is for any reason held invalid or unconstitutional by any court of

competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

All ordinances in conflict herewith are hereby amended to the extent of such conflict.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

RECEIVED

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ALCOHOLIC BEVERAGE CONTROL

ORDINANCE NO. 26-2004

AN ORDINANCE AMENDING SECTION 3-12 OF THE CODE OF ORDINANCES TO INCREASE THE ANNUAL DISTILLED SPIRITS AND WINE LICENSE FEES FOR BLENDERS FROM \$1,000.00 TO \$3,000.00, FOR WHOLESALERS FROM \$700.00 TO \$3,000.00, FOR RETAIL PACKAGE LICENSEES FROM \$650.00 TO \$1,000.00, FOR RETAIL DRINK, MOTEL DRINK, AIRPORT DRINK, RESTAURANT DRINK AND SUPPLEMENTAL BAR LICENSES FROM \$650.00 TO \$1,000.00, FOR SPECIAL TEMPORARY LIQUOR LICENSEES FROM \$100.00 TO \$166.66 PER EVENT, AND, FOR RESTAURANT WINE LICENSEES FROM \$300.00 TO \$600.00 FOR NEW APPLICANTS AND FROM \$200.00 TO \$400.00 FOR RENEWING APPLICANTS; AMENDING SECTION 3-12 OF THE CODE OF ORDINANCES TO CREATE DISTILLED SPIRITS AND WINE LICENSES FOR SPECIAL TEMPORARY LICENSES AT \$50.00 PER EVENT, FOR SPECIAL TEMPORARY AUCTION LICENSES AT \$200.00 PER EVENT, FOR NONRESIDENT SPECIAL AGENT OR SOLICITORS LICENSES AT \$40.00 PER ANNUM, FOR CATERER'S LICENSES AT \$800.00 PER ANNUM, FOR BOTTLING HOUSE OR WINE STORAGE LICENSES AT \$1,000.00 PER ANNUM, AND FOR SOUVENIR RETAIL LIQUOR LICENSES AT \$1,000.00 PER ANNUM; AMENDING SECTION 3-13 OF THE CODE OF ORDINANCES TO INCREASE THE ANNUAL MALT BEVERAGE LICENSE FEES FOR MICROBREWERIES FROM \$300.00 TO \$500.00, FOR DISTRIBUTORS FROM \$200.00 TO \$400.00, AND FOR RETAILERS FROM \$75.00 TO \$200.00; AMENDING SECTION 3-13 OF THE CODE OF ORDINANCES TO CREATE A NEW BREW-ON-PREMISES MALT BEVERAGE LICENSE AT \$100.00 PER ANNUM; AMENDING SECTION 3-13.1 OF THE CODE OF ORDINANCES TO CREATE NEW LICENSES FOR CATERER'S AT \$800.00 PER ANNUM, RIVERBOATS AT \$1,200.00 PER ANNUM AND AUTOMOBILE RACE TRACKS AT \$2,000.00 PER ANNUM; AND, PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE MARCH 1, 2004.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Section 3-12 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 3-12. Distilled spirits and wine license fees.

The following kinds of distilled spirits and wine licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Distiller's license, per annum \$ 500.00
- (2) Rectifier's license, per annum 3,000.00
- (3) Blender's license, per annum 3,000.00
- (4) Wholesaler's license, per annum 3,000.00

(5) Retail package license, per annum

- (a) New applicants 600.00
- (b) Renewals 400.00
- (9) Special Sunday sale retail drink license, per
annum 300.00
- (10) Special temporary wine license, per event 50.00
- (11) Special temporary auction license, per event 200.00
- (12) Nonresident special agent or solicitor's license,
per annum 40.00
- (13) Bottling house or wine storage license,
per annum. 1,000.00
- (14) Souvenir retail liquor license, per annum 1,000.00

Section 2 – That Section 3-13 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 3-13. Malt beverage license fees.

The following kinds of malt beverage licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Brewer's license, per annum \$500.00
- (2) Microbrewery license, per annum 500.00
- (3) Distributor's license, per annum 400.00
- (4) Retailer's license, per annum. 200.00
- (5) Special temporary license, per event 25.00
- (6) Special Sunday malt beverage retailer's
license, per annum 125.00
- (7) Brew-on-premises license, per annum 100.00

Section 3 – That Section 3-13.1 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 3-13.1. Special convention center, extended hours, horse race track, caterer's, riverboat, and automobile race track license.

- (3) Horse race track license, per annum2,000.00
- (4) Caterer's license, per annum800.00
- (5) Riverboat license, per annum1,200.00
- (6) Automobile race track license, per annum 2,000.00

All restrictions and prohibitions applying to regular retail drink distilled spirits and wine licenses and retail malt beverage licenses shall apply to the special licenses established in this section, unless otherwise provided by law.

Section 4 – That this Ordinance shall become effective on March 1, 2004.

PASSED URBAN COUNTY COUNCIL: February 5, 2004

/s/ Teresa Ann Isaac
MAYOR

ATTEST:

/s/ Liz Damrell
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: February 11, 2004-1t

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BEVERAGE CONTROL

Sec. 3-25. Inactive and dormant license renewal.

(a) Any license under which no business is transacted for a period of forty-five (45) days shall be deemed inactive and shall be surrendered by the licensee or shall be revoked by the urban county administrator. Any licensee who has had its state alcoholic beverage license placed in **dormancy** shall, within three (3) days of the state granting its **dormancy** application, apply to place its urban county license in **dormancy** or shall immediately surrender its urban county license.

(b) A licensee shall not be deemed to have transacted business for purposes of this section unless its gross sales of alcoholic beverages during any calendar month equal or exceed ten (10) percent of its gross sales of alcoholic beverages for the immediately preceding calendar year.

(c) If a license becomes inactive under the provisions of this section because the licensee was unable to transact business on the licensed premises due to an act of God, casualty, act of eminent domain, landlords refusal to renew an existing lease for the premises, court action, or other similar and verifiable business reason, then the license may not be revoked if the licensee files an application with the urban county administrator to place the license in **dormancy** and the licensee otherwise satisfies the conditions for a dormant license. The application must be filed prior to the forty-fifth day on which no business is transacted under the license and shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00).

(d) The urban county administrator may grant an application to place a license in **dormancy** if he determines that such status satisfies the business reasons identified in subsection (b).

(e) A dormant license shall continue to be valid during the license period but no business shall be transacted under the license and no alcoholic beverages may be kept on the licensed premises. The dormant license shall be renewed in the same manner as an active license. A license may remain in **dormancy** for a maximum period of twelve (12) months from the date the dormant license application is granted. Each licensee shall be permitted to place a license in **dormancy** on only two (2) occasions.

(f) A licensee may activate a dormant license by filing a written request with the urban county administrator. Activation may be granted if the licensee meets all state and local requirements to hold the license.

(Ord. No. 86-2000, § 15, 4-13-00)

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Sec. 3-18. Sales only at place specified in license.

No license issued pursuant to this chapter shall authorize the sale of alcoholic beverages of any kind at more than one (1) place, which shall be specified in the license; and a separate license must be taken out for each place in which any alcoholic beverages are proposed to be sold. (Ord. No. 184-79, § 2, 5-31-79)

Sec. 3-19. Sales to be in public view.

No person holding a license under this chapter shall sell at retail any intoxicating alcoholic beverage behind blinds or screens, but such sales shall be conducted openly and without any attempt to hide such sales or screen them from public view. (Ord. No. 184-79, § 2, 5-31-79)

Sec. 3-20. Delivery hours for malt beverages.

(a) It shall be unlawful for any distributor, wholesaler or manufacturer of malt beverages or for any agent or employee thereof, to make any such deliveries of malt beverages to any dispenser or customer in the corporate limits between the hours of 12:00 midnight on Saturday and 7:00 a.m. on the succeeding Monday. The word "deliveries" as used herein shall include the transfer of actual possession of malt beverages whether the same be sold, bartered, loaned or transferred in any manner, by a distributor, wholesaler or manufacturer, or by any agent or employee thereof.

(b) It shall be unlawful for any person or for any dispenser or dealer, either for private use, or for the purpose of sale, to receive from any distributor or wholesaler or manufacturer of malt beverages, or from any agent or employee thereof, malt beverages between the hours of 12:00 midnight on Saturday and 7:00 a.m. on the succeeding Monday. (Ord. No. 105-68, § 1, 5-2-68)

State law reference—See KRS 244.460.

Sec. 3-21. Business hours.

No premises for which there has been granted a license for the sale of distilled spirits and wine shall be permitted to remain

open for any purpose between 12:00 a.m. and 7:00 a.m. on Monday or between 1:00 a.m. and 7:00 a.m. on any day from Tuesday through Saturday or at any time after 1:00 a.m. on a Sunday, and no premises for which there has been granted a license for the sale of malt beverages shall be permitted to remain open for any purpose between 12:00 a.m. and 6:00 a.m. on Monday or between 1:00 a.m. and 6:00 a.m. on any day from Tuesday through Saturday or at any time after 1:00 a.m. on a Sunday, unless a license authorizing different hours has been issued; or on an election day while the polls are open; however, if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and such department is kept locked during the time mentioned above, he shall be deemed to have complied with this section. (Ord. No. 105-68, § 1, 5-2-68; Ord. No. 127-86, § 5, 7-17-86; Ord. No. 4-87, § 1, 1-8-87; Ord. No. 5-87, § 1, 1-8-87)

Sec. 3-22. Dancing where beverages sold; permits, regulations.

(a) No person operating a business wherein alcoholic beverages are sold shall permit dancing without first obtaining the permits and paying the license fee as herein prescribed.

(b) A permit shall be obtained from the chief of the division of fire; and it shall be the duty of the fire chief to cause an inspection to be made of the premises for which an application has been made to permit dancing under the terms of this section to determine whether the premises and the structures located thereon comply with all the requirements of the existing fire prevention ordinances of the urban county government, including the standards of safety adopted by the urban county government and all other laws relative to fire prevention. No permit shall be issued by the fire chief unless all the ordinances and laws mentioned in this subsection are being fully complied with.

(c) A permit shall be obtained from the director of the division of building inspection; and it shall be the duty of the director to cause an inspection to be made of the premises for which an application has been made to permit dancing under the terms of this section to ascertain whether the premises conform in all respects to the ordinances and codes relating to the structures on such premises and state in such permit, if one is issued, those

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designated premises if the general public is excluded. All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee shall apply to a special private club license. (Ord. No. 194-79, § 2, 5-31-79)

Sec. 3-9.1. Same—Hotels, motels, convention centers, restaurants, commercial airports license for Sunday sale.

(1) Hotels, motels, convention centers, restaurants and commercial airports which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty (50) percent or more of gross annual income from dining facilities by the sale of food may apply for a special Sunday sale retail drink license.

(2) Any premises for which there has been granted a special Sunday sale retail drink license shall be permitted to sell distilled spirits and wine by the drink on Sunday from 1:00 p.m. until 11:00 p.m. (Ord. No. 127-86, § 5, 7-17-86)

Editor's note—Ord. No. 127-86, adopted July 17, 1986, was approved at an election held Nov. 4, 1986.

Sec. 3-9.2. Sunday malt beverage retailer's license for hotels, motels, convention centers, restaurants and commercial airports.

(1) Hotels, motels, convention centers, restaurants and commercial airports which are licensed for the retail sale of malt beverages and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty (50) percent or more of gross annual income from dining facilities by the sale of food may apply for a special Sunday malt beverage retailer's license.

(2) Any premises for which there has been granted a special Sunday malt beverage retailer's license shall be permitted to sell malt beverages by the drink on Sunday from 1:00 p.m. until 11:00 p.m. (Ord. No. 6-87, § 1, 1-8-87)

Sec. 3-9.3. Extended hours supplemental license for convention centers, race tracks and commercial airports.

(1) Convention centers, race tracks and commercial airports which have secured an extended hours supplemental license from the state alcoholic beverage control board may apply for a special extended hours supplemental license.

(2) Any convention center or horse race track for which there has been granted a special extended hours supplemental license shall be permitted to sell distilled spirits and wine by the drink from 12:00 a.m. until 1:00 a.m. and from 7:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 1:00 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday. Any such convention center or horse race track may sell malt beverages by the drink from 12:00 a.m. until 1:00 a.m. and from 6:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 1:00 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday.

(3) Any commercial airport for which there has been granted a special extended hours supplemental license shall be permitted to sell distilled spirits and wine by the drink from 12:00 a.m. until 4:00 a.m. and from 7:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 4:00 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday. Any such airport may sell malt beverages by the drink from 12:00 a.m. until 4:00 a.m. and from 6:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 4:00 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday. (Ord. No. 4-87, § 1, 1-8-87)

Sec. 3-10. License revocation or suspension—Powers of board.

The urban county administrator shall have the same powers and duties with respect to suspension and revocation of licenses granted under this chapter as the state alcoholic beverage control board has with respect to licenses granted under KRS 249.020 to 249.670 in addition to any other powers and duties granted to or imposed upon him by ordinance. (Ord. No. 194-79, § 2, 5-31-79)

ORDINANCE NO. _____

AN ORDINANCE ENACTING SECTION 3-23.1 OF THE CODE OF ORDINANCES TO PROHIBIT OWNERS/OCCUPANTS OF PROPERTY FROM PERMITTING INDIVIDUALS UNDER THE AGE OF TWENTY-ONE (21) YEARS TO POSSESS, CONSUME, OR USE ALCOHOLIC BEVERAGES ON THE PROPERTY, PROHIBITING PERSONS FROM ALLOWING INDIVIDUALS UNDER THE AGE OF TWENTY-ONE (21) YEARS TO VIOLATE THIS SECTION, AND PROVIDING THAT VIOLATIONS SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS (\$100.00) NOR MORE THAN FIVE HUNDRED DOLLARS (\$500.00).

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Section 3-23.1 of the Code of Ordinances be
and hereby is enacted to read as follows:

- (1) No person being the owner or occupant or otherwise in possession or control of any property located within Fayette County shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.
- (2) No person shall knowingly allow, aid, assist, induce, cause, or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages.
- (3) It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.
- (4) As used in this section, the term "alcoholic beverages" shall have the meaning given to it in KRS 241.010 and KRS 242.010.
- (5) As used in this section, the term "minor" shall mean a person under the age of twenty-one (21) years.

Section 2 - That Section 3-25 of the Code of Ordinances
be and hereby is amended to read as follows:

- (a) Any person who shall engage in or carry on, without a license, any business for which a license is provided by this chapter, or who, having had a license, shall continue in such business in any succeeding year without obtaining a renewal of his license, shall be guilty of a misdemeanor and shall be liable to be proceeded against for the penalty

(b) Any person who shall violate any provisions of this chapter, other than those provisions specified in subsections (c) through (h) of this section, shall, for each offense, and upon conviction in the district court of the urban county government, be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or confined in the detention center for more than thirty (30) days, or both so fined and imprisoned. Each day of such violation shall constitute a separate offense.

(c) Any person violating any of the provisions of section 3-20 shall, upon conviction thereof, be fined one hundred dollars (\$100.00) for each offense.

(d) Any person, who, by himself or acting through another, directly or indirectly, violates any of the provisions of section 3-21 shall upon the first conviction thereof be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or imprisoned for not more than six (6) months or both; and for the second and each subsequent conviction he shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or imprisoned for not more than six (6) months, or both.

(e) Any person violating any of the provisions of section 3-22 shall, upon conviction thereof, be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or confined in the detention center not less than one (1) day nor more than thirty (30) days or both so fined and imprisoned; and the license issued to such person shall become null and void.

(f) Any person violating any of the provisions of section 3-23 shall, upon conviction thereof, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each offense.

(g) Any person violating any of the provisions of section 3-23.1 shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and each day of such operation shall constitute a separate offense.

(h) Any person violating any of the provisions of section 3-24 by selling beer or liquor by the drink without providing lavatory facilities shall be fined not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00), and each day of such operation shall constitute a separate offense.

Section 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

Mayor

ATTEST:

Clerk of Urban County Council

Sexing w

ORDINANCE NO. 4-87

AN ORDINANCE ENACTING SECTIONS 3-9.3 AND 3-13.1 AND AMENDING SECTION 3-21 OF THE CODE OF ORDINANCES TO ESTABLISH A SPECIAL EXTENDED HOURS SUPPLEMENTAL LICENSE WITH A LICENSE FEE OF \$2,000 PER ANNUM WHICH WOULD PERMIT CONVENTION CENTERS AND RACE TRACKS HAVING A STATE EXTENDED HOURS SUPPLEMENTAL LICENSE TO SELL DISTILLED SPIRITS AND WINE BY THE DRINK FROM 12:00 A.M. UNTIL 1:00 A.M. AND FROM 7:00 A.M. UNTIL 12:00 A.M. MONDAY THROUGH SATURDAY AND FROM 12:00 A.M. UNTIL 1:00 A.M. AND FROM 1:00 P.M. UNTIL 12:00 A.M. SUNDAY AND SELL MALT BEVERAGES BY THE DRINK FROM 12:00 A.M. UNTIL 1:00 A.M. AND FROM 6:00 A.M. UNTIL 12:00 A.M. MONDAY THROUGH SATURDAY AND FROM 12:00 A.M. UNTIL 1:00 A.M. AND FROM 1:00 P.M. UNTIL 12:00 A.M. SUNDAY AND PERMIT COMMERCIAL AIRPORTS HAVING A STATE EXTENDED HOURS SUPPLEMENTAL LICENSE TO SELL DISTILLED SPIRITS AND WINE BY THE DRINK FROM 12:00 A.M. UNTIL 4:00 A.M. AND FROM 7:00 A.M. UNTIL 12:00 A.M. MONDAY THROUGH SATURDAY AND FROM 12:00 A.M. UNTIL 4:00 A.M. AND FROM 1:00 P.M. UNTIL 12:00 A.M. SUNDAY AND SELL MALT BEVERAGES BY THE DRINK FROM 12:00 A.M. UNTIL 4:00 A.M. AND FROM 6:00 A.M. UNTIL 12:00 A.M. MONDAY THROUGH SATURDAY AND FROM 12:00 A.M. UNTIL 4:00 A.M. AND FROM 1:00 P.M. UNTIL 12:00 A.M. SUNDAY; AND TO ESTABLISH A SPECIAL CONVENTION CENTER LICENSE WITH A LICENSE FEE OF \$2,000 PER ANNUM.

WHEREAS, it was held in Matchmaker Breeders' Exchange, et al. v. Commonwealth of Kentucky, et al., Franklin Circuit Court No. 86-CI-1318, that KRS 243.050(4) and 804 KAR 4:230 were unconstitutional to the extent that urban county governments were excluded therefrom and, accordingly, that convention centers, horse race tracks licensed to conduct a race meeting under KRS Chapter 230, and commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart annually, may sell distilled spirits, wine and malt beverages by the drink at retail on Sunday in Fayette County during the hours specified in the administrative regulation; and

WHEREAS, the Council has determined that in view of the court's order in the Matchmaker case, that an ordinance should be adopted to establish a special convention center license and a special extended hours supplemental license; and

WHEREAS, KRS 243.030(25) and 243.040(11) authorize the State Alcoholic Beverage Control Board to issue such special licenses

correspond, in their provisions and the business authorized, to state licenses;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Code of Ordinances Sections 3-9.3 and 3-13.1 shall be enacted and Code of Ordinances Section 3-21 shall be amended, all to read as follows:

Sec. 3-9.3

- (1) Convention centers, race tracks and commercial airports which have secured an extended hours supplemental license from the state alcoholic beverage control board may apply for a special extended hours supplemental license.
- (2) Any convention center or horse race track for which there has been granted a special extended hours supplemental license shall be permitted to sell distilled spirits and wine by the drink from 12:00 A.M. until 1:00 a.m. and from 7:00 A.M. until 12:00 A.M. Monday through Saturday and from 12:00 A.M. until 1:00 A.M. and from 1:00 P.M. until 12:00 A.M. Sunday. Any such convention center or horse race track may sell malt beverages by the drink from 12:00 A.M. until 1:00 A.M. and from 6:00 A.M. until 12:00 A.M. Monday through Saturday and from 12:00 A.M. until 1:00 A.M. and from 1:00 P.M. until 12:00 A.M. Sunday.
- (3) Any commercial airport for which there has been granted a special extended hours supplemental license shall be permitted to sell distilled spirits and wine by the drink from 12:00 A.M. until 4:00 A.M. and from 7:00 A.M. until 12:00 A.M. Monday through Saturday and from 12:00 A.M. until 4:00 A.M. and from 1:00 P.M. until 12:00 A.M. Sunday. Any such airport may sell malt beverages by the drink from 12:00 A.M. until 4:00 A.M. and from 6:00 A.M. until 12:00 A.M. Monday through Saturday and from 12:00 A.M. until 4:00 A.M. and from 1:00 P.M. until 12:00 A.M. Sunday.

Sec. 3-13.1

The following kinds of special licenses may be issued by the urban county administration, the fees for which shall be:

- | | |
|--|------------|
| (1) Convention center license, per annum | \$2,000.00 |
| (2) Extended hours supplemental license, per annum | 2,000.00 |
| (3) Horse race track license, per annum | 2,000.00 |

All restrictions and prohibitions applying to regular retail distilled spirits and wine licenses and retail malt

Sec. 3-21

No premises for which there has been granted a license for the sale of alcoholic beverages shall be permitted to remain open for any purpose between 1:00 A.M. and 7:00 A.M. on any day from Monday through Saturday; or at any time after 1:00 A.M. on a Sunday, unless a license authorizing different hours has been issued; or on an election day while the polls are open; however, if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and such department is kept locked during the time mentioned above, he shall be deemed to have complied with this section.

Section 2 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: January 8, 1987

Scotty Basler
MAYOR

ATTEST:

Harley W. Johnson
Clerk of Urban County Council

PUBLISHED: January 14, 1987-1t

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ALCOHOLIC
BEVERAGE CONTROL

FROM THE LEXINGTON CODE OF ORDINANCES
LEXINGTON, KENTUCKY

§ 3-23

§ 3-23

ALCOHOLIC BEVERAGES

§ 3-25

(i) The provisions of this section shall not apply to bona fide hotels which rent their facilities for private dances, provided the hotels are not engaged in promoting dances for their own profit beyond the charge made to organizations or individuals conducting private dances. For the purpose of this section "bona fide hotels" shall be construed as establishments wherein the chief business transacted is the renting of rooms to transient guests and the customary hotel accommodations and facilities.

(j) The premises wherein dancing is permitted under the terms and provisions of this section shall be at all times reasonably and adequately lighted.

(k) Any person violating any of the provisions of this section, or who having been issued a license hereunder, permits such business to operate in such a manner as to create a nuisance or to violate any of the provisions of this chapter or any law relating to the sale of alcoholic beverages shall, in addition to any other penalties prescribed by law, be fined in accordance with section 3-25 (e).

Sec. 3-24. Display of warning to minors.

It shall be the duty of every retail licensee to display at all times in a prominent place a printed card which shall read substantially as follows:

"WARNING TO MINORS

"If you are under twenty-one years of age you may be fined up to \$100.00 if you purchase alcoholic beverages on these premises, or misrepresent your age for the purpose of attempting to purchase or obtain alcoholic beverages, or obtain alcoholic beverages through the assistance of any adult person. Section 3-24, Code of Ordinances, City of Lexington."

Cross references—Penalty, § 3-25(f); sale to minors, § 14-39.

Sec. 3-25. Penalties.

(a) Any person who shall engage in or carry on, without a license, any business for which a license is provided by this chapter, or who, having had a license, shall continue in

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BEVERAGE CONTROL

such business in any succeeding year without obtaining a renewal of his license, shall be guilty of a misdemeanor and shall be liable to be proceeded against for the penalty prescribed in subsection (b) in addition to the amount of the license.

(b) Any person who shall violate any provisions of this chapter, other than those provisions specified in subsections (c) through (f) of this section, shall, for each offense, and upon conviction in the police court of the city, be fined not less than twenty-five dollars nor more than one hundred dollars or confined in the city jail not more than thirty days, or both so fined and imprisoned. Each day of such violation shall constitute a separate offense.

(c) Any person violating any of the provisions of section 3-20 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined one hundred dollars for each offense.

(d) Any person violating any of the provisions of section 3-22 by selling beer or liquor by the drink without providing lavatory facilities shall be fined not less than ten dollars nor more than twenty-five dollars and each day of such operation shall constitute a separate offense.

(e) Any person violating any of the provisions of section 3-23 shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars nor more than one hundred dollars or confined in the city jail not less than one day nor more than thirty days, or both so fined and imprisoned, and the license issued to such person shall become null and void.

(f) Any person violating any of the provisions of section 3-24 shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars for each offense.

Art. I. In General, §
Art. II. Dogs, §§ 4-13

Sec. 4-1. Auction sa

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Sec. 4-2. Cruelty, in

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State law reference-

Sec. 4-3. Same—Po

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Sec. 4-4. Same—Al

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Cross references—
dairies, § 10-51 et seq.;

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BEVERAGE CONTROL

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sixteen years of age, to allow or permit any such child, ward or other person, under such age, while in such legal custody, to go or be in or upon any of the streets, alleys or public places in the city within the time prohibited in section 14-37 unless there exists a reasonable necessity therefor.

Any person violating the provisions of this section shall, upon conviction be fined not less than one dollar nor more than ten dollars for each offense.

Sec. 14-39. Same—Obtaining alcoholic beverages.

(a) It shall be unlawful for any person under twenty-one years of age to enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered to him any alcoholic beverage.

(b) It shall be unlawful for any person under the age of twenty-one years of age to purchase or attempt to purchase or have another purchase for him any alcoholic beverage at any premises licensed for the sale of alcoholic beverages.

(c) It shall be unlawful for any person under the age of twenty-one years to misrepresent his age for the purpose of inducing any retail licensee or any employee of any retail licensee to sell or serve any alcoholic beverage to him.

(d) It shall be unlawful for any parent or guardian intentionally to permit any minor of which he may have the legal custody to violate any of the provisions of this section.

(e) Nothing contained in this section shall excuse or relieve the owner, proprietor, employee or person in charge of any licensed premises in the city where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance of the city or statute of the state relating to violations pertaining to the sale of alcoholic beverages.

(f) Any person who shall violate any of the provisions of this section shall be fined not less than ten dollars nor more than one hundred dollars for each offense.

Cross reference—Alcoholic beverages, warning to be displayed § 3-24.

ALCOHOLIC BEVERAGE CONTROL

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Sec. 14-40.

No person under the age of sixteen years shall possess or have in his possession, or place such person in possession of, any such child in

Any person shall be fined not less than one hundred dollars

Sec. 14-41.

It shall be unlawful for any person or bagatelle machine, or where machine, to be used by a child under sixteen years of age

Any person who shall violate any of the provisions of this section shall be fined not less than ten dollars nor more than one hundred dollars for each offense.
Amendment § 14-41 by chapter 14 under sixteen

Sec. 14-42.

Any person who shall keep or permit a minor to be in such house for each offense

Sec. 14-43.

Children shall not use roller skate
Supp. No. 1

Chapter 3 ALCOHOLIC BEVERAGES*

***Editor's note**--Section 1 of Ord. No. 134-79, adopted May 31, 1979, repealed §§ 3-2--3-19, 3-22--3-25, derived from the original codification as amended by Ord. No. 3973, §§ 1, 2, adopted Dec. 13, 1959; Ord. No. 74-67, § 1, adopted Apr. 13, 1967; and Ord. No. 134-68, § 1, adopted June 15, 1978. Section 2 of Ord. No. 134-79 enacted new §§ 3-2--3-19, 3-22--3-25.

State law reference(s)--Alcoholic beverages, KRS ch. 241 et seq.

Sec. 3-1. Definitions.

The words and terms used in this chapter specifying the kinds of licenses shall have the same meanings as in those parts of the Kentucky Revised Statutes applying to the licenses provided herein.

Sec. 3-2. Office of urban county alcoholic beverage control administrator--Qualifications.

There is created an office of urban county alcoholic beverage control administrator. The urban county administrator and such investigators and clerks as are deemed necessary for the proper conduct of his office shall be appointed by the mayor. The urban county administrator shall take the oath prescribed in section 228 of the Kentucky Constitution before entering upon such duties.

(Ord. No. 134-79, § 2, 5-31-79)

Cross reference(s)--Appointment, salary, benefits for alcoholic beverage control administrator, § 22-47.

Sec. 3-3. Same--Powers.

- (a) The urban county administrator and his investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the urban county government.
- (b) The urban county administrator, and his investigators, may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-4. Same--Bond.

- (a) Before entering upon his duties, the urban county administrator shall execute a bond with a good corporate security in the penal sum of not less than one thousand dollars (\$1,000.00).
- (b) The urban county administrator may require any employee under his supervision to execute a similar bond in such penal sum as he deems necessary.
- (c) The cost of the bonds given under this section shall be borne by the urban county government.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-5. Same--Function.

The functions of the urban county administrator shall be the same with respect to urban county licenses and regulations as the functions of the alcoholic beverage control board with respect to state licenses and regulations, except that no regulations adopted by the urban county administrator may be less stringent than the statutes relating to alcoholic beverage control or than the regulations of the board.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 1, 4-13-00)

Sec. 3-6. Same--Appeals.

Appeals from the orders of the urban county administrator may be taken as prescribed by law.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-7. License applications--Procedure.

- (a) Each person, before applying to the state alcoholic beverage control board under the provisions of KRS chapter 243, to do business in the urban county shall first apply to and obtain approval of the urban county administrator for an urban county license to do business; and no person shall engage in any business for which a license is provided under this section without first obtaining such license. Such licenses shall conform in their provisions and the business authorized to kindred state licenses.
- (b) Such application for an urban county license shall be written and verified, shall contain the information required by the provisions of KRS 243.390, and shall otherwise comply with all provisions of law.
- (c) The urban county administrator shall either approve or disapprove of any such application in accordance with the law.
- (d) Upon approval of any such application, the applicant shall pay the amount of the license fee provided in this chapter, within the time prescribed in this chapter, to the

commissioner of finance, who shall issue the license.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-8. Same--Transfer or assignment.

The urban county administrator may permit the transfer or assignment of any license issued under this chapter to another person or premises under the same terms and conditions as provided by statute.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-9. Distilled spirits and wine--Special private club license.

- (a) Any applicant for a special private club license shall be required, as a condition precedent to obtaining such a license, to show to the satisfaction of the urban county administrator that it is a nonprofit social, fraternal, military or political organization or club, which for more than one (1) year prior to the date of filing such application has maintained and operated a club room or rooms within the urban county from which the general public is excluded.
- (b) This license shall authorize the licensee to exercise the privilege of a malt beverage or a distilled spirits and wine retail drink licensee, or both, at the designated premises if the general public is excluded. All restrictions and prohibitions applying to a malt beverage and a distilled spirits and wine retail drink licensee shall apply to a special private club licensee.
- (c) A special private club license may be issued by the urban county administrator, the fee for which shall be three hundred dollars (\$300.00) per annum.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 2, 4-13-00)

Sec. 3-9.1. Same--Hotels, motels, convention centers, restaurants, commercial airports license for Sunday sale.

- (1) Hotels, motels, convention centers, restaurants and commercial airports which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty (50) percent or more of gross annual income from dining facilities by the sale of food may apply for a special Sunday sale retail drink license.
- (2) Any premises for which there has been granted a special Sunday sale retail drink license shall be permitted to sell distilled spirits and wine by the drink on Sunday from 1:00 p.m. until 11:00 p.m.

(Ord. No. 127-86, § 5, 7-17-86)

Editor's note--Ord. No. 127-86, adopted July 17, 1986, was approved at an election held Nov. 4, 1986.

Sec. 3-9.2. Sunday malt beverage retailer's license for hotels, motels, convention centers, restaurants and commercial airports.

- (1) Hotels, motels, convention centers, restaurants and commercial airports which are licensed for the retail sale of malt beverages and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty (50) percent or more of gross annual income from dining facilities by the sale of food may apply for a special Sunday malt beverage retailer's license.
- (2) Any premises for which there has been granted a special Sunday malt beverage retailer's license shall be permitted to sell malt beverages by the drink on Sunday from 1:00 p.m. until 11:00 p.m. Any premises for which there has been granted a special Sunday malt beverage retailer's license shall be permitted to sell malt beverages by the drink in those years in which New Year's Eve (December 31) falls on a Sunday, from 1:00 p.m. until 12:00 a.m. on Sunday, December 31, and from 12:00 a.m. until 1:00 a.m. on Monday, January 1, of the following year.

(Ord. No. 6-87, § 1, 1-8-87; Ord. No. 291-95, § 1, 12-7-95)

Sec. 3-9.3. Extended hours supplemental license for convention centers, race tracks and commercial airports.

- (1) Convention centers, race tracks and commercial airports which have secured an extended hours supplemental license from the state alcoholic beverage control board may apply for a special extended hours supplemental license.
- (2) Any convention center or horse race track for which there has been granted a special extended hours supplemental license shall be permitted to sell distilled spirits and wine by the drink from 12:00 a.m. until 1:00 a.m. and from 7:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 1:00 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday. Any such convention center or horse race track may sell malt beverages by the drink from 12:00 a.m. until 1:00 a.m. and from 6:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 1:00 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday.
- (3) Any commercial airport for which there has been granted a special extended hours supplemental license shall be permitted to sell distilled spirits and wine by the drink from 12:00 a.m. until 4:00 a.m. and from 7:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 4:00 a.m. and from 1:00 p.m. until 12:00 a.m. Sunday. Any such airport may sell malt beverages by the drink from 12:00 a.m. until 4:00 a.m. and from 6:00 a.m. until 12:00 a.m. Monday through Saturday and from 12:00 a.m. until 4:00

a.m. and from 1:00 p.m. until 12:00 a.m.Sunday.

(Ord. No. 4-87, § 1, 1-8-87)

Sec. 3-10. License revocation or suspension--Powers of board.

The urban county administrator shall have the same powers and duties with respect to suspension and revocation of licenses granted under this chapter as the state alcoholic beverage control board has with respect to licenses granted under KRS chapter 243 in addition to any other powers and duties granted to or imposed upon him by ordinance.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-11. Same--Effect.

Upon revocation of any license issued under this chapter, the licensee shall not thereafter be granted a license under this chapter within two (2) years next after such revocation; and on any such revocation, the urban county administrator, in his discretion, may order that no other license be issued to anyone to conduct in the same premises any business required to be licensed by this chapter within two (2) years next after the revocation of such license.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-12. Distilled spirits and wine license fees.

The following kinds of distilled spirits and wine licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Distiller's license, per annum . . . \$ 500.00
- (2) Rectifier's license, per annum . . . 3,000.00
- (3) Blender's license, per annum . . . 1,000.00
- (4) Wholesaler's license, per annum . . . 700.00
- (5) Retail package license, per annum . . . 650.00
- (6) Retail drink, motel drink, airport drink, restaurant drink or supplemental bar license, per annum . . . 650.00
- (7) Special temporary liquor license per event . . . 100.00
- (8) Restaurant wine license, per annum:
 - (a) New applicants . . . 300.00
 - (b) Renewals . . . 200.00

- (9) Special Sunday sale retail drink license, per annum . . . 300.00

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 127-86, § 5, 7-17-86; Ord. No. 86-2000, § 3, 4-13-00)

Note--See the editor's note to § 3-9.1.

Sec. 3-13. Malt beverage license fees.

The following kinds of malt beverage licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Brewer's license, per annum . . . \$ 500.00
- (2) Microbrewery license, per annum . . . 300.00
- (3) Distributor's license, per annum . . . 200.00
- (4) Retailer's license, per annum:
 - (i) New applicants . . . 75.00
 - (ii) Renewals . . . 75.00
- (5) Special temporary license, per event . . . 25.00
- (6) Special Sunday malt beverage retailer's license, per annum . . . 125.00

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 6-87, § 1, 1-8-87; Ord. No. 86-2000, § 4, 4-13-00)

Sec. 3-13.1. Special convention center, extended hours, and horse race track license.

The following kinds of special licenses may be issued by the urban county administrator, the fees for which shall be:

- (1) Convention center license, per annum . . . \$2,000.00
- (2) Extended hours supplemental license, per annum . . . 2,000.00
- (3) Horse race track license, per annum . . . 2,000.00

All restrictions and prohibitions applying to regular retail drink distilled spirits and wine licenses and retail malt beverage licenses shall apply to the special licenses established in this section, unless otherwise provided by law.

(Ord. No. 65-85, § 1, 4-4-85; Ord. No. 4-87, § 1, 1-8-87; Ord. No. 86-2000, § 5, 4-13-00)

Sec. 3-14. License period; time of payment; delinquency.

- (a) The license period for all forms of alcoholic beverage licenses shall conform to the period covered by kindred licenses issued by the state; and such licenses, other than special temporary licenses, when issued, shall be valid for a period of no more than one

- (1) year. All licenses shall expire on the thirtieth day of June of each year until a renewal system with staggered dates has been implemented by the urban county administrator.
- (b) The annual license renewal fees provided in this chapter shall be paid on or before the tenth day of July of each year or, after the implementation of a renewal system with staggered dates, within ten (10) days after the expiration date and any person holding any form of such license who fails to pay the license fees by said date shall be subject to a revocation of such license and in addition shall pay a penalty of ten (10) percent of the amount of the annual license renewal fee if the license is subsequently renewed.
 - (c) The license fees of any person entering upon any of the businesses required by this chapter to be licensed shall be due and payable at the time of their entering upon any of such businesses and if not paid within ten (10) days after they become due shall be deemed delinquent and shall have added thereto a penalty of ten (10) percent of the license tax.
 - (d) Persons delinquent in their payment of any license fees imposed upon them by this chapter shall be proceeded against and subjected to revocation of license and to additional penalty as provided in section 3-26.
 - (e) Until a renewal system with staggered dates is implemented, when any person applies for a license authorized to be issued under this chapter after July 1 of any year or for a new license after the implementation of a renewal system with staggered dates, he shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half ($1/2$) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 6, 4-13-00)

Sec. 3-15. Disposition of license fees.

All money derived from the collection of license fees or the forfeiture of bonds, pursuant to this chapter, shall be paid into and become part of the general fund of the urban county government.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-16. License to contain certain information.

There shall be stamped or printed on the face of each license issued pursuant to this chapter the type of license issued, such as "Retail Beer," "Retail Package Liquor" and so forth,

together with the words "License period shall be July 1 through June 30," and the year to be covered by such license, or, in the case of special temporary licenses and after the implementation of a renewal system with staggered dates, the precise dates covered by the license.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 7, 4-13-00)

Sec. 3-17. License to be displayed.

- (a) Before commencing or doing any business for the time for which a license has been issued, all licenses issued under this chapter shall be posted and at all times displayed in a conspicuous place in the room or principal room where the business is carried on, so that all persons visiting the place may readily see the license.
- (b) No licensee shall post the license or permit it to be posted upon premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.
- (c) Whenever a license is lost or destroyed, a duplicate license shall be issued upon proof of loss satisfactory to the urban county administrator and upon the payment of a fee of twenty-five dollars (\$25.00).

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 8, 4-13-00)

Sec. 3-18. Sales only at place specified in license.

No license issued pursuant to this chapter shall authorize the sale of alcoholic beverages of any kind at more than one (1) place, which shall be specified in the license; and a separate license must be taken out for each place in which any alcoholic beverages are proposed to be sold.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-19. Sales to be in public view.

The entrance of any premises for which a retail license has been issued shall be of clear glass and permit an unobstructed view. The premises shall be so erected and maintained as to furnish a clear view of the premises from the sidewalk, or, if the premises are not on the street level, from the entrance. No partition, box, stall, screen, curtain, or other device shall obstruct the view or the general observation of persons, but partitions, subdivisions, or panels that are not higher than forty-eight (48) inches from the floor shall not be construed as obstructing the view or the general observation of persons.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 9, 4-13-00)

Sec. 3-20. Delivery hours for malt beverages.

- (a) It shall be unlawful for any distributor, wholesaler or manufacturer of malt beverages or for any agent or employee thereof to deliver any malt beverages in the urban county between the hours of 12:00 midnight on Saturday and 6:00 a.m. on the succeeding Monday. The word "deliver" as used herein shall include the transfer of actual possession of malt beverages whether the same be sold, bartered, loaned or transferred in any manner, by a distributor, wholesaler or manufacturer, or by any agent or employee thereof.
- (b) It shall be unlawful for any person, either for private use or for the purpose of sale, to receive from any distributor, wholesaler or manufacturer of malt beverages, or from any agent or employee thereof, malt beverages between the hours of 12:00 midnight on Saturday and 6:00 a.m. on the succeeding Monday.

(Ord. No. 105-68, § 1, 5-2-68; Ord. No. 86-2000, § 10, 4-13-00)

State law reference(s)--See KRS 244.480.

Sec. 3-21. Business hours.

- (a) A premise for which there has been granted a license for the sale of distilled spirits and wine shall not be permitted to remain open for any purpose between 12:00 a.m. and 7:00 a.m. on Monday or between 1:00 a.m. and 7:00 a.m. on any day from Tuesday through Saturday or at any time after 1:00 a.m. on a Sunday, unless a license authorizing different hours has been issued.
- (b) A premise for which there has been granted a license for the sale of malt beverages shall not be permitted to remain open for any purpose between 12:00 a.m. and 6:00 a.m. on Monday or between 1:00 a.m. and 6:00 a.m. on any day from Tuesday through Saturday or at any time after 1:00 a.m. on a Sunday, unless a license authorizing different hours has been issued.
- (c) A premise for which there has been granted a license for the sale of distilled spirits and wine or malt beverages shall not be permitted to remain open for any purpose on an election day during the hours the polls are open.
- (d) If a licensee provides a separate locked department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine and all stocks of malt beverages, and such department is kept locked during the times mentioned above in (a) for distilled spirits and wine and in (b) for malt beverages, it shall be deemed to have complied with this section.
- (e) The term "locked department" shall include all display windows, show cases, shelves, and counters. In no event shall the shelves and counters be left open, but shall have a

door affixed thereto, and the storeroom, display windows, show cases, shelves and counters shall be under lock and key. The "door" may be sliding or affixed with hinges and may be glass, wood, or wire netting of not more than one (1) inch mesh.

A separate locked department will be deemed to exist if the licensee uses a register or computerized check-out system that prohibits the sale of alcoholic beverages and the licensee physically conceals or covers all stocks of alcoholic beverages during the times the licensee is not permitted to remain open.

- (f) A licensee shall not sell, give away, or deliver any alcoholic beverage or permit any alcoholic beverage to be sold, given away, or delivered on the licensed premises during the hours it is not permitted to remain open. A licensee shall not permit the consumption of alcoholic beverages on the licensed premises for a period of more than thirty (30) minutes after the hour it is to close for business or to stop selling and delivering alcoholic beverages.

(Ord. No. 105-68, § 1, 5-2-86; Ord. No. 127-86, § 5, 7-17-86; Ord. No. 4-87, § 1, 1-8-87; Ord. No. 5-87, § 1, 1-8-87; Ord. No. 86-2000, § 11, 4-13-00)

Sec. 3-22. Dancing where beverages sold; permits, regulations.

- (a) No person operating a business wherein alcoholic beverages are sold shall allow dancing on the premises by patrons without first obtaining the permit and paying the license fee as herein prescribed.
- (b) A permit shall be obtained by filing an application with the commissioner of public safety or his designee who shall cause inspections, by the divisions of fire and emergency services and building inspection, to be made of the premises for which an application has been made to allow dancing. No permit shall be issued by the commissioner of public safety unless all the ordinances and laws mentioned in subsections (c) and (d) of this section are being fully complied with and the licensee holds all licenses required by chapter 3 of this code.
- (c) The chief of the division of fire and emergency services or his designee shall inspect the premises for which an application has been made to allow dancing under the terms of this section to determine whether the premises and the structures located thereon comply with all the requirements of the existing fire prevention ordinances of the urban county government, including the standards of safety adopted by the urban county government and all other laws relative to fire prevention. The chief of the division of fire and emergency services or his designee shall identify those portions of the premises where dancing is allowed and the maximum number of persons allowed in that portion of the premises where dancing is allowed; and in fixing the maximum number of persons he shall give due consideration to the type of activity for which the permit is sought.
- (d) The director of the division of building inspection or his designee shall inspect the

premises for which an application has been made to allow dancing under the terms of this section to ascertain whether the premises conform in all respects to the ordinances and codes relating to the structures on such premises. The director of the division of building inspection shall further ascertain whether, under the zoning ordinances of the urban county government, dancing is allowed at the location for which the permit is sought.

- (e) The commissioner of public safety shall, within sixty (60) days from receipt of an application for a dance permit, submit to the chief administrative officer, his recommendation for the grant or denial of the permit. If the commissioner of public safety recommends that the permit should be denied then his recommendation shall be accompanied by a written report setting forth why the permit should not be issued. It shall be the duty of the chief administrative officer to review the recommendation and report and to approve or disapprove the application.
- (f) The applicant, prior to allowing dancing by its patrons, if the application is approved by the chief administrative officer and issued by the commissioner of public safety, shall pay to the urban county government through the division of revenue a minimum license fee of two hundred dollars (\$200.00) per year. The applicant shall further comply in all respects with the provisions of chapter 13 of this Code or subsequent licensing ordinances pertaining to the payment of license fees. No dance permit shall be issued to the applicant unless the written approval of the chief administrative officer is presented to the division of revenue.
- (g) The permit issued under the terms of this section shall not be transferable. In case the permit applies to a corporation, a limited liability corporation, a partnership, or a limited liability company, a transfer of ownership of more than ten (10) percent interest in the corporation, partnership, or company shall cancel the permit.
- (h) The provisions of this section shall not apply to a nonprofit religious, charitable, benevolent, fraternal, or social organization which is recognized by the United States Internal Revenue Service as being exempt from federal taxation or to bona fide hotels which rent their facilities for private dances, provided the hotels are not engaged in promoting dances for their own profit beyond the charge made to organizations or individuals conducting private dances. For the purpose of this section "bona fide hotels" shall be construed as establishments wherein the chief business transacted is the renting of rooms to transient guests and the customary hotel accommodations and facilities.
- (i) The premises wherein dancing by patrons is permitted under the terms and provisions of this section shall be at all times reasonably and adequately lighted and the license shall be posted and at all times displayed in a conspicuous place in the room or principal room where dancing is permitted.
- (j) The dance permit may be renewed by filing a renewal application with the commissioner

of public safety or his designee who shall not be required to re-inspect the premises pursuant to subsections (b), (c) and (d) above but shall determine whether the applicant otherwise continues to meet the requirements for a dance permit. The provisions of subsections (e) and (f) above shall apply to the renewal application.

- (k) Any person violating any of the provisions of this section or who, having been issued a permit hereunder, allows such business to operate in such a manner as to create a nuisance or to violate any of the provisions of this chapter or any law relating to the sale of alcoholic beverages shall, in addition to any other penalties prescribed by law, be fined in accordance with section 3-26(e).

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 246-97, § 2, 11-20-97; Ord. No. 47-99, § 7, 3-2-99; Ord. No. 86-2000, § 12, 4-13-00)

Sec. 3-23. Display of warning to minors.

It shall be the duty of every retail licensee to display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall show, in 30-point or larger type, substantially as follows:

WARNING TO MINORS

Persons under the age of twenty-one (21) are subject to a fine up to one hundred dollars (\$100.00) if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.
2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.
4. Use or attempt to use any false, fraudulent or altered identification card or document to purchase or attempt to purchase or otherwise obtaining any alcoholic beverages.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 86-2000, § 13, 4-13-00)

Sec. 3-23.1. Permitting possession by minors prohibited.

- (1) No person being the owner or occupant or otherwise in possession or control of any property located within the urban county shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.
- (2) No person shall knowingly allow, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages.

- (3) It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.087.
- (4) As used in this section, the term "alcoholic beverages" shall have the meaning given to it in KRS 241.010.

(Ord. No. 51-87, § 1, 4-2-87; Ord. No. 86-2000, § 14, 4-13-00)

Cross reference(s)—Minors obtaining alcoholic beverages, § 14-39.

Sec. 3-23.2. Congregating on certain ABC licensed premises and vacant premises prohibited.

- (1) No person or entity operating a package liquor store shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.
- (2) No person or entity being the owner or otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.
- (3) No persons shall congregate for the purposes, under the circumstances, or in the places proscribed in subsections (1) and (2) of this section.
- (4) It shall be a defense to any prosecution under subsection (1) or (2) if such licensed vendor or property owner shall permit the division of police to post and maintain a legible, painted or printed sign in at least two (2) separate prominent places in such area, in letters of not less than three (3) inches in height, stating that congregating of persons is prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.
- (5) As used in this section, the term:
 - (a) *Habitual* shall mean consistent, that is, by frequent practice or use, but not necessarily constant or exclusive;
 - (b) *Package liquor store* shall mean a retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes;
 - (c) *Public nuisance* shall mean any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by, or the health, safety and welfare of the public; and

- (d) *Vacant property* shall mean a vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

(Ord. No. 74-88, § 1, 4-21-88)

Sec. 3-23.3. Alcohol warning signs; drinking alcohol during pregnancy.

All licensed retail vendors of alcoholic beverages shall post in a prominent place a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(Ord. No. 204-88, § 1, 9-8-88; Ord. No. 256-88, § 1, 11-3-88; Ord. No. 100-93, § 1, 6-17-93)

~~State law reference(s)~~—Similar provisions, KRS 243.895.

Sec. 3-24. Lavatory facilities, where required.

All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises.

(Ord. No. 134-79, § 2, 5-31-79)

Sec. 3-25. Inactive and dormant license renewal.

- (a) Any license under which no business is transacted for a period of forty-five (45) days shall be deemed inactive and shall be surrendered by the licensee or shall be revoked by the urban county administrator. Any licensee who has had its state alcoholic beverage license placed in dormancy shall, within three (3) days of the state granting its dormancy application, apply to place its urban county license in dormancy or shall immediately surrender its urban county license.
- (b) A licensee shall not be deemed to have transacted business for purposes of this section unless its gross sales of alcoholic beverages during any calendar month equal or exceed ten (10) percent of its gross sales of alcoholic beverages for the immediately preceding calendar year.
- (c) If a license becomes inactive under the provisions of this section because the licensee was unable to transact business on the licensed premises due to an act of God, casualty, act of eminent domain, landlords refusal to renew an existing lease for the premises, court action, or other similar and verifiable business reason, then the license may not be revoked if the licensee files an application with the urban county administrator to place the license in dormancy and the licensee otherwise satisfies the

conditions for a dormant license. The application must be filed prior to the forty-fifth day on which no business is transacted under the license and shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00).

- (d) The urban county administrator may grant an application to place a license in dormancy if he determines that such status satisfies the business reasons identified in subsection (b).
- (e) A dormant license shall continue to be valid during the license period but no business shall be transacted under the license and no alcoholic beverages may be kept on the licensed premises. The dormant license shall be renewed in the same manner as an active license. A license may remain in dormancy for a maximum period of twelve (12) months from the date the dormant license application is granted. Each licensee shall be permitted to place a license in dormancy on only two (2) occasions.
- (f) A licensee may activate a dormant license by filing a written request with the urban county administrator. Activation may be granted if the licensee meets all state and local requirements to hold the license.

(Ord. No. 86-2000, § 15, 4-13-00)

Sec. 3-26. Penalties.

- (a) Any person who shall engage in or carry on, without a license, any business for which a license is provided by this chapter, or who, having had a license, shall continue in such business in any succeeding year without obtaining a renewal of his license, shall be guilty of a misdemeanor and shall be liable to be proceeded against for the penalty prescribed in subsection (b) in addition to the amount of the license.
- (b) Any person who shall violate any provisions of this chapter, other than those provisions specified in subsections (c) through (i) of this section, shall, for each offense, and upon conviction in the district court of the urban county government, be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or confined in the detention center for more than thirty (30) days, or both so fined and imprisoned. Each day of such violation shall constitute a separate offense.
- (c) Any person violating any of the provisions of section 3-20 shall, upon conviction thereof, be fined one hundred dollars (\$100.00) for each offense.
- (d) Any person, who, by himself or acting through another, directly or indirectly, violates any of the provisions of section 3-21 shall upon the first conviction thereof be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or imprisoned for not more than (6) months or both; and for the second and each subsequent conviction he shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or imprisoned for not more than six (6) months, or both.

- (e) Any person violating any of the provisions of section 3-22 shall, upon conviction thereof, be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or confined in the detention center not less than one (1) day nor more than thirty (30) days or both so fined and imprisoned; and the license issued to such person shall become null and void.
- (f) Any person violating any of the provisions of section 3-23 or section 3-23.3 shall, upon conviction thereof, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each offense.
- (g) Any person violating any of the provisions of section 3-23.1 shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and each day of such operation shall constitute a separate offense.
- (h) Any person violating any of the provisions of section 3-23.2 shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), and each day of such assembly shall constitute a separate offense.
- (i) Any person violating any of the provisions of section 3-24 by selling beer or liquor by the drink without providing lavatory facilities shall be fined not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00), and each day of such operation shall constitute a separate offense.

(Ord. No. 134-79, § 2, 5-31-79; Ord. No. 51-87, § 2, 4-2-87; Ord. No. 74-88, § 2, 4-21-88; Ord. No. 204-88, § 2, 9-8-88; Ord. No. 79-97, §§ 1, 3, 5-29-97; Ord. No. 233-98, § 2, 8-27-98)