

**ORDINANCE AMENDING § 111.15 AND §111.30 OF THE ALCOHOLIC BEVERAGE ORDINANCE -TYPES OF LICENSE- AND - HOURS WHEN SALE OF ALCOHOLIC BEVERAGE PERMITTED - PERMITTING SUNDAY SALES OF ALCOHOLIC BEVERAGES - REMOVING THE PROHIBITION OF ALCOHOL SALE ON ELECTION DAY IN ACCORDANCE WITH THE REMOVAL OF STATE LAW PROHIBITIONS.**

**Ordinance #0-2014-018**

WHEREAS, the Commission desires to amend the Alcoholic Beverage Ordinance to permit the sale of alcoholic beverages on Sunday so to promote the economic development within the City and encourage new business to local within the City of Pikeville; and to remove the prohibition against alcohol sales on election day in accordance with the removal of state law prohibition against said sales by the Kentucky Legislators

**NOW, THEREFORE BE IT ORDAINED** by the City of Pikeville as follows:

Chapter 111.15 of the Code of Ordinances relating to types of Licenses and Chapter 111.30 relating to the hours of sale of alcoholic beverage are amended as follows:

**§ 111.15 TYPES OF LICENSES; FEES.**

The following kinds of distilled spirits and malt beverage licenses may be issued by the city and the annual fees for each license shall be as indicated:

Type of License	Fee
(A) Wholesaler (Distilled Spirits and Wine)	\$3,000.00
(B) Quota Retail Package Distilled Spirits and Wine	\$600.00
(C) Distributor (Malt Beverage)	\$400.00
(D) NQ-4 Retail Malt Beverage Drink License	
(1) New Applicants	\$200.00
(2) Renewals	\$150.00
(E) Retail Malt Beverage Package License	\$200.00
(F) NQ-2 Retail Restaurant and hotel combined distilled spirits, malt beverage and wine drink	\$1,000.00

(G)	Special temporary wine and/or beer (KRS 243.260 and KRS 243.290)	\$50.00
(H)	NQ-1 Retail Drink License (Convention Center, Horse Track, Automobile Race License)	\$2,000.00
(I)	Supplement Bar License (per bar up to 5)	\$1,000.00
(J)	Special Sunday Retail Package Distilled Spirits And Wine; Malt Beverage Package License and Retail Drink License	\$250.00

**§ 111.30 HOURS WHEN SALE PERMITTED.**

(A) (1) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensee's premises, any alcoholic beverage between the following hours:

<i>Day</i>	<i>Prohibited Hours of Sale</i>
Monday	12:00 a.m. and 8:00 a.m.
Tuesday	1:00 a.m. and 8:00 a.m.
Wednesday	1:00 a.m. and 8:00 a.m.
Thursday	1:00 a.m. and 8:00 a.m.
Friday	1:00 a.m. and 8:00 a.m.
Saturday	2:00 a.m. and 8:00 a.m.
Sunday	2:00 a.m. and 1:00 p.m.

(2) In the event that January 1 falls on Monday through Thursday, it shall not be unlawful to sell or offer for sale, at retail or to give away, in or upon any licensee's premises, any alcoholic beverage between 1:00 a.m. and 2:00 a.m.

(B) It shall be unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic beverages in or upon any premises in which alcoholic beverages are sold at retail during the hours within which the sale of such alcoholic beverages is prohibited; provided, that in case of bona fide restaurants, such establishments may be kept open for business during such hours, but no alcoholic beverages may be sold to, or consumed by the public during such hours.

The above ordinance was given first reading this 24th day of November, 2014, the ordinance was given a second reading on the 8th day of December, 2014.

Passed this 8th day of December, 2014.

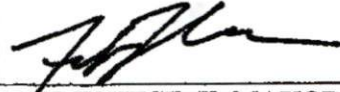
Commissioner Chaney moved for the adoption of the foregoing ordinance.

Commissioner Coleman seconded the motion.

Upon roll call, the votes were as follows:


	<u>YES</u>	<u>NO</u>
FRANK JUSTICE, II, MAYOR	<u>  X  </u>	<u>      </u>
GENE DAVIS, COMMISSIONER	<u>      </u>	<u>  X  </u>
JERRY K. COLEMAN, COMMISSIONER	<u>  X  </u>	<u>      </u>
BARRY CHANEY, COMMISSIONER	<u>  X  </u>	<u>      </u>
JIMMY CARTER, COMMISSIONER	<u>  X  </u>	<u>      </u>

The Mayor declared the within ordinance adopted.



FRANK JUSTICE, II, MAYOR

ATTESTED:

  
CITY CLERK

**AN EMERGENCY ORDINANCE AMENDING CHAPTER  
111.15 OF THE ALCOHOLIC BEVERAGE ORDINANCE  
RELATING TO TYPES OF ALCOHOLIC BEVERAGE  
LICENSES AND FEES THEREFOR**

**ORDINANCE NO. 0-2013-018**

**WHEREAS**, the Kentucky General Assembly did adopt Senate Bill 13 which amended the types Alcoholic Beverage License available in the Commonwealth and fees therefore that can be charged by Municipalities; and

**WHEREAS**, Said changes go into effect June 30, 2013 which necessitate the amendment by the City of Pikeville of it Ordinance regarding the sale of Alcoholic Beverages so to conform with the new law changes;

**NOW, THEREFORE, BE IT ORDAINED THAT** Chapter 111.15 "TYPES OF LICENSES; FEES" is amended to read as follows:

The following kinds of distilled spirits and malt beverage licenses may be issued by the city and the annual fees for each license shall be as indicated:

Type of License	Fee
(A) Wholesaler (Distilled Spirits and Wine)	\$3,000.00
(B) <u>Quota Retail Package</u> (Distilled Spirits and Wine) ( <del>Package</del> )	600.00
(C) Distributor (Malt Beverage)	400.00
(D) <del>Retail (Malt Beverage)</del> <u>NO-4 Retail Malt Beverage Drink License</u>	
(1) New Applicants	200.00
(2) Renewals	150.00
(E) <u>Retail Malt Beverage Package License</u>	<u>\$200</u>
(E) Restaurant wine	
- (1) New applicants	600.00
- (2) Renewals	400.00
(FF) <u>NO-2-Retail Restaurant and hotel combined distilled spirits, malt beverage and</u>	<u>600.00 1,000.00</u>

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- wine drink
- (G) Special temporary wine and/or beer (KRS 243.260 and KRS 243.290) 50.00
- (H) NO-1 Retail Drink License (Convention Center, Horse Track, Automobile Race License) \$2000.00
- (I) Supplement Bar License (per bar up to 5) \$1,000.00

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An emergency is declared to exist with regard to the passage of this ordinance in that the above amendment must by State Law take effect no later than June 30, 2013 and the Commission of the City will not meet again before the required effective date. The ordinance shall be in full force and effect on July 1, 2013.

Passed this 18<sup>th</sup> day of June 2013.


Commissioner Chaney moved for the adoption of the forgoing ordinance.

Commissioner Carter seconded the motion.

Upon roll call, the votes were as follows:

	Yes	No
FRANK JUSTICE, MAYOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GENE DAVIS, COMMISSIONER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JERRY K. COLEMAN, COMMISSIONER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JIMMY CARTER, COMMISSIONER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BARRY CHANEY, COMMISSIONER	<input checked="" type="checkbox"/>	<input type="checkbox"/>

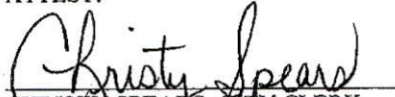
The Mayor declared the within ordinance adopted.



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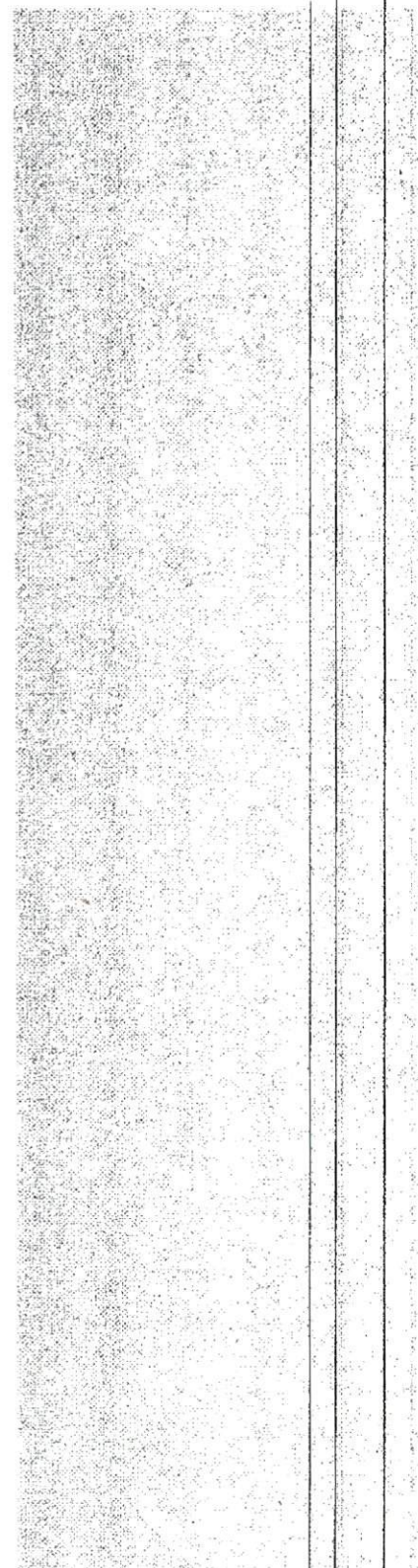
FRANKLIN D. JUSTICE, II MAYOR

ATTEST:



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CHRISTY SPEARS, CITY CLERK



**ORDINANCE AMENDING SECTION 111.17 RELATED TO  
AN ALCOHOLIC BEVERAGE REGULATORY LICENSE  
FEE; ADOPTING A BUDGET FOR EXPENDURES FOR  
THE ADDITIONAL POLICING, REGULATORY AND  
ADMINISTRATIVE EXPENSES RELATED TO THE SALE  
OF ALCOHOLIC BEVERAGES IN THE CITY OF  
PIKEVILLE AND ADOPTING A REGULATORY LICENSE  
FEES TO REIMBURSE THE CITY FOR THESE EXPENSES**

**Ordinance #0-2013-023**

WHEREAS, the City of Pikeville having conferred with the various departments within the City which deal with the policing, regulation and administration of alcoholic beverage licensing and sales have determined the additional cost incurred by the City of Pikeville to police, regulate and administer the sales and licensing of alcoholic beverage within the City and have submitted a proposed budget for those expenses;

WHEREAS, the Commission for the City of Pikeville has heretofore adopted this proposed budget;

WHEREAS, based upon the additional cost incurred by the City of Pikeville to police, regulate and administer the sales and licensing of alcoholic beverage within the City as reflected in its approved budget, the finance department has determined that a regulatory license fee percentage of 3% upon the gross receipts of each establishment licensed to sell alcoholic beverage by package or drink within the City is reasonable estimated to reimburse the City for its additional expense to police, regulate and administer the sales and licensing of alcoholic beverage within the City;

NOW THEREFORE, it is here by ordained by the Commission for the City of Pikeville as follows:

**111.17 REGULATORY LICENSE FEE IMPOSED.**

(A) There is imposed a regulatory license fee upon the gross receipts from sale of alcoholic beverages of each establishment within the city licensed to sell alcoholic beverages, by package or by drink, in the sum of three percent (3%) of the gross receipts of such establishments. The regulatory license fee is assessed at three percent (3%) based upon the city's estimate and approved budget as to the cost of reimbursing the city for additional policing and regulatory or

administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses lawfully imposed upon such establishment.

(B) A credit shall be allowed to each establishment against the regulatory license fee equal to the annual license fees imposed in 111.15.

(BC) The regulatory license fee described in division (A) of this section shall be collected by the Administrator according to the existing framework of the occupational tax and license fee regulations of the city. Such regulatory license fee shall be payable and collectable quarterly

The above ordinance was given first reading this 2<sup>nd</sup> day of August, 2013, the ordinance was given a second reading on the 12<sup>th</sup> day of August, 2013.

Passed this 12<sup>th</sup> day of August, 2013.


Commissioner Carter moved for the adoption of the foregoing ordinance.

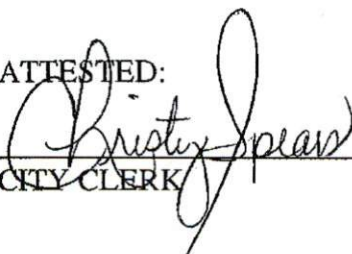
Commissioner Coleman seconded the motion.

Upon roll call, the votes were as follows:

	<u>YES</u>	<u>NO</u>
FRANK JUSTICE, II, MAYOR	<u>Y</u>	_____
GENE DAVIS, COMMISSIONER	<u>X</u>	_____
JERRY K. COLEMAN, COMMISSIONER	<u>X</u>	_____
BARRY CHANEY, COMMISSIONER	<u>X</u>	_____
JIMMY CARTER, COMMISSIONER	<u>X</u>	_____

The Mayor declared the within ordinance adopted.

  
\_\_\_\_\_  
FRANK JUSTICE, II, MAYOR

ATTESTED:  
  
\_\_\_\_\_  
CITY CLERK



**AN ORDINANCE RELATED TO THE  
AMENDMENT OF CHAPTER 111 ESTABLISHING  
UNIFORM REGULATION AND REQUIREMENTS  
FOR THE LICENSING AND REGULATION OF  
THE SALE OF ALCOHOLIC BEVERAGES,  
DECLARING THAT AN ECONOMIC HARDSHIP  
EXISTS WITHOUT THE CONTINUED SALE OF  
ALCOHOLIC BEVERAGE BY THE DRINK.**

WHEREAS, the City of Pikeville has requested and received legislative reclassification of the City of Pikeville from a Third Class City to a Forth Class City which reclassification will take effect July 15, 2011.

WHEREAS, ABC regulation and statutes adopted by the Commonwealth only allow the Sale of alcoholic beverage by the drink in Cities of the Fourth Class upon a determination by the legislative body that an economic hardship exists within the City and that the sale of alcoholic beverage by the drink could aid economic growth; and

WHEREAS, the Commission for the City of Pikeville has determined that an economic hardship exists within the City and that the sale of alcoholic beverage by the drink could aid economic growth within the City and that the suspension of the sale of alcoholic beverage by the drink as the result of reclassification would result in an economic hardship for the business already located within the City that currently have alcoholic beverage by the drink licenses and further would result in a drop in license fee collections for alcoholic beverage by the drink sales in a particular difficult economy.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PIKEVILLE AS FOLLOWS:

**CHAPTER 111: ALCOHOLIC BEVERAGES**

**GENERAL PROVISIONS**

**§ 111.01 SHORT TITLE.**

This chapter shall be known and may be cited as the "Pikeville Alcoholic Beverage Control Chapter".

### § 111.02 DEFINITIONS.

Words used throughout this chapter, unless the context requires otherwise, and unless specifically defined herein, shall have the same definitions as those set forth in the Kentucky Alcoholic Beverage Control Law, as contained in KRS Chapters 241 through 244.

### § 111.03 SCOPE.

(A) Irrespective of title or headings, the sections of this chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such application.

(B) Nothing in this chapter shall excuse or relieve a licensee or the agent or employee of any licensee in the city from the restrictions, requirements, and penalties of any other regulation of the city or of the state.

### § 111.04 ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW.

The provisions of the alcoholic beverage control law of the Commonwealth of Kentucky, as contained in KRS Chapters 241 through 244, and all amendments and supplements thereto, are adopted so far as applicable to this chapter, except as otherwise lawfully provided herein.

### LICENSES

#### § 111.15 TYPES OF LICENSES; FEES.

The following kinds of distilled spirits and malt beverage licenses may be issued by the city and the annual fees for each license shall be as indicated:

Type of License	Fee
(A) Wholesaler (Distilled Spirits and Wine)	\$3,000.00
(B) Retail Distilled Spirits and Wine (Package)	600.00

(C) Distributor (Malt Beverage) 400.00

(D) Retail (Malt Beverage)  
(1) New Applicants 200.00  
(2) Renewals 150.00

(E) Restaurant wine  
(1) new applicants \$600  
(2) renewals \$400

(F) Restaurant and Hotel distilled spirits and wine drink \$600.00

**§ 111.16 ISSUANCE OF LICENSE.**

(A) Initially, there shall be no more than thirteen (13) retail distilled spirits and wine licenses issued in the city.

(B) The City ABC Administrator, in his sound discretion, shall issue the types of licenses authorized under this subchapter. In exercising his discretion, the City ABC Administrator may consider, in addition to other factors, the location of the proposed premises, the availability of parking facilities to serve the proposed premises, the financial benefit to the city, and the financial stability of the applicant and the applicant or renewal applicant compliance with the law. He shall have full police powers of a peace officer in his/her jurisdiction. An person making application for and holding a license under this ordinance is deemed to have irrevocability consented to the City ABC Administrator, City Building Inspector, City Fire Inspector and the City of Pikeville Police Department to come upon and inspect and search the licensed premises at any reasonable time to ascertain the licensee compliance with the laws of the Commonwealth and City of Pikeville related to the sale of alcoholic beverages.

(C) No license shall be issued to any person, firm, or corporation who is ineligible for a state license; and no licenses shall be issued to any city law enforcement official.

(D) No license shall be issued or renewed to any person or company which has outstanding an taxes, interest or penalties to the City of Pikeville.

(E) All licenses shall expire on June 30 of each year.

**§ 111.17 REGULATORY LICENSE FEE IMPOSED.**

(A) There is imposed a regulatory license fee upon the gross receipts from sale of alcoholic beverages of each establishment within the city licensed to sell alcoholic beverages in the sum of three percent (3%) of the gross receipts of such establishments. The regulatory license fee is assessed at three percent (3%) based upon the city's estimate as to the cost of reimbursing the city for additional policing and regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses lawfully imposed upon such establishment.

(B) The regulatory license fee described in division (A) of this section shall be collected by the Administrator according to the existing framework of the occupational tax and license fee regulations of the city. Such regulatory license fee shall be payable and collectable quarterly.

## **SALE OF ALCOHOLIC BEVERAGES**

### **§ 111.30 HOURS WHEN SALE PERMITTED.**

(A) (1) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensee's premises, any alcoholic beverage between the following hours:

<b><u>Day</u></b>	<b><u>Prohibited Hours of Sale</u></b>
Monday	12:00 a.m. and 8:00 a.m.
Tuesday	1:00 a.m. and 8:00 a.m.
Wednesday	1:00 a.m. and 8:00 a.m.
Thursday	1:00 a.m. and 8:00 a.m.
Friday	1:00 a.m. and 8:00 a.m.
Saturday	2:00 a.m. and 8:00 a.m.
Sunday	2:00 a.m. and 12:00 a.m.

(2) In the event that January 1 falls on Monday through Thursday, it shall not be unlawful to sell or offer for sale, at retail or to give away, in or upon any licensee's premises, any alcoholic beverage between 1:00 a.m. and 2:00 a.m.

(B) It shall be unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic beverages in or upon any premises in which alcoholic beverages are sold at retail during the hours within which the sale of such alcoholic beverages is prohibited; provided, that in case of bona fide restaurants, such establishments may be kept open for business during such hours, but no alcoholic beverages may be sold to, or consumed by the public during such hours.

(C) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensed premises, any alcoholic beverages on the day of any national, state, county, municipal, or school election, including primary elections, during the hours the polls are open, within the political area in which such election is being held.

### § 111.31 APPROVAL OF PREMISES.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BONA FIDE RESTAURANT.** Any premises which are kept, used, maintained, advertised, and held out to the general public as premises where meals are prepared and served, for consumption on the premises, on a regular basis and which derives seventy percent (70%) or more of its gross annual income from the sale of food which is prepared, served, and consumed on the premises and which has a minimum seating capacity of one hundred (100) people at tables.

**LICENSE.** Any premises licensed by the city to sell alcoholic beverages on a wholesale or retail basis.

**BONA FIDA HOTEL.** Any hotel, motel or sleeping inn containing not less than ~~Fifty (50)~~ sleeping units and having dining facilities for not less than one hundred (100) persons.

(B) No holder of a retail malt beverage license shall permit the consumption of alcoholic beverages on the licensed premises unless it is a bona fide restaurant or hotel.

(C) The City Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until such time as the applicant shall have had its place of business approved by the County Health Department, the State Fire Health Department, the City Building Inspector, and State Fire Marshal; and, no license shall be issued to any person, firm, or corporation for the selling at retail or wholesale of alcoholic beverages at any premises or location which is in violation of any of the city's ordinances and regulations.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

The ordinance shall be in full force and effect after it is passed and published as required by law and no sooner than July 15, 2011. The above ordinance was given first reading this 11<sup>th</sup> day of April, 2011, the ordinance was given a second reading on the 25<sup>th</sup> day of April, 2011.

Passed this 25<sup>th</sup> day of April 2011.

Commissioner Chaney moved for the adoption of the forgoing ordinance.

Commissioner Carter seconded the motion.

Upon roll call, the votes were as follows:

	Yes	No
FRANK JUSTICE, MAYOR	<u>X</u>	<u>    </u>
GENE DAVIS, COMMISSIONER	<u>X</u>	<u>    </u>
DALLAS LAYNE, COMMISSIONER	<u>  X  </u>	<u>    </u>
JIMMY CARTER, COMMISSIONER	<u>  X  </u>	<u>    </u>
BARRY CHANEY, COMMISSIONER	<u>  X  </u>	<u>    </u>

The Mayor declared the within ordinance adopted.

  
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 FRANKLIN D. JUSTICE, II MAYOR

ATTEST:

  
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 CHRISTY BILLITER, CITY CLERK

**CHAPTER 111:****Cross-reference:**

*Adult entertainment establishments, see Ch. 122*

**GENERAL PROVISIONS****§ 111.01 SHORT TITLE.**

This chapter shall be known and may be cited as the "Pikeville Alcoholic Beverage Control Chapter".

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

**§ 111.02 DEFINITIONS.**

Words used throughout this chapter, unless the context requires otherwise, and unless specifically defined herein, shall have the same definitions as those set forth in the Kentucky Alcoholic Beverage Control Law, as contained in KRS Chapters 241 through 244.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

**§ 111.03 SCOPE.**

(A) Irrespective of title or headings, the sections of this chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such application.

(B) Nothing in this chapter shall excuse or relieve a licensee or the agent or employee of any licensee in the city from the restrictions, requirements, and penalties of any other regulation of the city or of the state.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

**§ 111.04 ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW.**

The provisions of the alcoholic beverage control law of the Commonwealth of Kentucky, as contained in KRS Chapters 241 through 244, and all amendments and supplements thereto, are adopted so far as applicable to this chapter, except as otherwise lawfully provided herein.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

**LICENSES**

**§ 111.15 TYPES OF LICENSES; FEES.**

The following kinds of distilled spirits and malt beverage licenses may be issued by the city and the annual fees for each license shall be as indicated:

	<b>Type of License</b>	<b>Fee</b>
(A)	Wholesaler (Distilled Spirits and Wine)	\$3,000.00
(B)	Retail Distilled Spirits and Wine (Package)	600.00
(C)	Distributor (Malt Beverage)	400.00
(D)	Retail (Malt Beverage)	
	(1) New Applicants	200.00
	(2) Renewals	150.00

	<b>Type of License</b>	<b>Fee</b>
(E)	Retail Drink (Wine)	300.00

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

**Statutory reference:**

*City licenses; fees, see KRS 243.070*

**§ 111.16 ISSUANCE OF LICENSE.**

(A) Initially, there shall be no more than thirteen (13) retail distilled spirits and wine licenses issued in the city.

(B) The City Administrator, in his sound discretion, shall issue the types of licenses authorized under this subchapter. In exercising his discretion, the City Administrator may consider, in addition to other factors, the location of the proposed premises, the availability of parking facilities to serve the proposed premises, the financial benefit to the city, and the financial stability of the applicant.

(C) No license shall be issued to any person, firm, or corporation who is ineligible for a state license; and no licenses shall be issued to any city law enforcement official.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)



**§ 111.17 REGULATORY LICENSE FEE IMPOSED.**

(A) There is imposed a regulatory license fee upon the gross receipts from sale of alcoholic beverages of each establishment within the city licensed to sell alcoholic beverages in the sum of three percent (3%) of the gross receipts of such establishments. The regulatory license fee is assessed at three percent (3%) based upon the city's estimate as to the cost of reimbursing the city for additional policing and regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses lawfully imposed upon such establishment.

(B) The regulatory license fee described in division (A) of this section shall be collected by the Administrator according to the existing framework of the occupational tax and license fee regulations of the city. Such regulatory license fee shall be payable and collectable quarterly.

(Ord. 0-83-007, passed 4-25-83; Am. Ord. 83-0-14, passed 7-25-83)

**Cross-reference:**

*Collection of license fees by Administrator, see § 115.03*

**Statutory reference:**

*Authorization for regulatory license fee, see KRS 243.075*

**SALE OF ALCOHOLIC BEVERAGES**

**§ 111.30 HOURS WHEN SALE PERMITTED.**

(A) (1) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensee's premises, any alcoholic beverage between the following hours:

<b>Day</b>	<b>Prohibited Hours of Sale</b>
Monday	12:00 a.m. and 8:00 a.m.
Tuesday	1:00 a.m. and 8:00 a.m.
Wednesday	1:00 a.m. and 8:00 a.m.
Thursday	1:00 a.m. and 8:00 a.m.
Friday	1:00 a.m. and 8:00 a.m.
Saturday	2:00 a.m. and 8:00 a.m.
Sunday	2:00 a.m. and 12:00 a.m.

(2) In the event that January 1 falls on Monday through Thursday, it shall not be unlawful to sell or offer for sale, at retail or to give away, in or upon any licensee's premises, any alcoholic beverage between 1:00 a.m. and 2:00 a.m.

(B) It shall be unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic beverages in or upon any premises in which alcoholic beverages are sold at retail during the hours within which the sale of such alcoholic beverages is prohibited; provided, that in case of bona fide restaurants, such establishments may be kept open for business during such hours, but no alcoholic beverages may be sold to, or consumed by the public during such hours.

(C) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensed premises, any alcoholic beverages on the day of any national, state, county, municipal, or school election, including primary elections, during the hours the polls are open, within the political area in which such election is being held.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

**§ 111.31 APPROVAL OF PREMISES.**

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BONA FIDE RESTAURANT.** Any premises which are kept, used, maintained, advertised, and held out to the general public as premises where meals are prepared and served, for consumption on the premises, on a regular basis and which derives fifty percent (50%) or more of its gross annual income from the sale of food which is prepared, served, and consumed on the premises and which has a minimum seating capacity of fifty (50) people at tables.

**LICENSE.** Any premises licensed by the city to sell alcoholic beverages on a wholesale or retail basis.

(B) No holder of a retail malt beverage license shall permit the consumption of alcoholic beverages on the licensed premises unless it is a bona fide restaurant.

(C) The City Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until such time as the applicant shall have had its place of business approved by the County Health Department, the City Building Inspector, and State Fire Health Department, the City Building Inspector, and State Fire Marshal; and, no license shall be issued to any person, firm, or corporation for the selling at retail or wholesale of alcoholic beverages at any premises or location which is in violation of any of the city's ordinances and regulations.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

**NUDE OR NEARLY NUDE ACTIVITIES**

**§ 111.50 DEFINITIONS.**

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

**BUSINESS ESTABLISHMENT.** A business within the city, where liquor, beer, or wine is

sold for consumption on the premises pursuant to a retail drink liquor license or retail cereal malt beverage liquor license that has been issued by the city.

**LICENSE.** A retail drink liquor license or a retail cereal malt beverage liquor license issued by the city.

**LICENSEE.** Any person to whom a retail drink liquor license or a retail cereal malt beverage liquor license has been issued by the city, including the officers, agents, and employees of the licensee.

**LIQUOR ADMINISTRATOR.** The duly appointed Alcoholic Beverage Control Administrator of the city.

**PERSON.** A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.

**PREMISES.** The land and building in and upon which any business establishment regulated by the alcoholic beverage statutes is carried on.

**RETAIL LICENSEE.** Any license, including its officers, agents, and employees, who sells at retail any alcoholic beverage.

(Ord. 0-87-013, passed 7-27-87)

**§ 111.51 PERFORMING NUDE OR NEARLY NUDE ACTIVITIES.**

It shall be unlawful for and a person is guilty of performing nude or nearly nude activity when that person appears on a business establishment's premises in such a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva, or genitals, or any simulation thereof, or appears on a business establishment's premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or simulation thereof; or has any physical contact with the sexual or other intimate parts of a person whether exposed or unexposed for the purpose of sexual stimulation, gratification, or performance, or does any act which depicts, portrays, or imitates sexual intercourse or any other sexual conduct.

(Ord. 0-87-013, passed 7-27-87) Penalty, see § 111.99

**§ 111.52 PERMITTING NUDE OR NEARLY NUDE ACTIVITIES.**

A licensee or retail license is guilty of permitting nude or nearly nude activity when having control of the business establishment's premises which it knows or has reasonable cause to know, is being used by any person to appear on the premises in such manner or attire as to expose to view portions of the pubic area, anus, buttocks, vulva, or genitals, or any simulation thereof; or to appear on the premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or any simulation thereof; or has any physical contact with the sexual or other intimate parts of a person whether exposed or unexposed for the purpose of sexual stimulation, gratification, or performance, or does any act which depicts, portrays or imitates sexual intercourse or any other sexual conduct, he permits such activity or fails to make reasonable and timely effort to halt or abate such activity or use.

(Ord. 0-87-013, passed 7-27-87) Penalty, see § 111.99

**§ 111.53 REVOCATION OR SUSPENSION OF LIQUOR LICENSE FOR VIOLATIONS.**

(A) In the event that a violation of §§ 111.51 or 111.52 occurs, the Liquor Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and 241.190), to determine whether the liquor licensee, at whose business establishment the activity prohibited by this subchapter occurred, shall have his license suspended or revoked.

(B) In the event three (3) or more violations of §§ 111.51 or 111.52 occur at a business establishment within a twelve (12) month period, the Liquor Administrator, after a hearing, shall revoke the retail drink license or retail cereal malt beverage license or both.

(Ord. 0-87-013, passed 7-27-87)

**ADMINISTRATION AND ENFORCEMENT**

**§ 111.65 CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.**

The office of City Alcoholic Beverage Control Administrator is hereby created. All functions of that office shall be the same with respect to city licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board with respect to state licenses and regulations and shall be further subject to the limitations of KRS 241.190.

(Ord. 0-83-007, passed 4-24-83)

**Statutory reference:**

*Appointment, see KRS 241.170 (2)*

*Oath and bond, see KRS 241.180*

**§ 111.66 INSPECTIONS.**

Police officers of the Police Department shall concurrently have the jurisdiction coextensive with the State Alcoholic Beverage Control Administrator and the City Administrator to inspect any licensed premise without first obtaining a search warrant.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

**§ 111.67 LICENSEE TO MAINTAIN BOOKS, RECORDS, AND REPORTS.**

(A) Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable rules and regulations of the State Alcoholic Beverage Control Board. Such books and records shall be available at all reasonable times for inspection by the City Administrator and such city employees who may assist the City Administrator in his review.

(B) Every licensee under this chapter who shall sell malt beverages or wine for consumption on the licensee's premises shall keep and maintain adequate books and records which shall accurately reflect the percentage of gross annual income derived from the sale of food which is prepared, served, and consumed on the licensee's premises.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

§ **111.68 DELINQUENT TAXES.**

No license to sell alcoholic beverages shall be granted to any person, firm, or corporation who or which is delinquent in the payment of any taxes due the city at the time of issuing the license; nor shall any license be granted to sell upon any premises upon which there are any delinquent taxes due to the city.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

§ **111.99 PENALTY.**

(A) Unless otherwise provided, any person, firm, or corporation who violates any of the provisions of this chapter or any state statute or regulations pertaining to the sale of alcoholic beverages shall, in addition to any state penalty, be subject to the revocation or suspension of his license.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

(B) Performing nude or nearly nude activities as set forth in § 111.51 or permitting those activities as set forth in § 111.52 is a violation and punishment shall be fixed as set forth in the Kentucky Revised Statutes. The second violation of §§ 111.51 or 111.52 within a twelve (12) month period shall constitute a Class B misdemeanor with punishment as set forth in the Kentucky Revised Statutes. Three (3) or more violations of §§ 111.51 of 111.52 within a twelve (12) month period shall constitute a Class A misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

(Ord. 0-87-013, passed 7-27-87)

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TITLE XI: BUSINESS REGULATIONS

CHAPTER 111: ALCOHOLIC BEVERAGES

*in Pike CO*

# CHAPTER 111: ALCOHOLIC BEVERAGES

**Cross-reference:**

*Adult entertainment establishments, see Ch. 122*

## GENERAL PROVISIONS

### § 111.01 SHORT TITLE.

This chapter shall be known and may be cited as the "Pikeville Alcoholic Beverage Control Chapter".

*No saved*

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

### § 111.02 DEFINITIONS.

Words used throughout this chapter, unless the context requires otherwise, and unless specifically defined herein, shall have the same definitions as those set forth in the Kentucky Alcoholic Beverage Control Law, as contained in KRS Chapters 241 through 244.

*m*

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

### § 111.03 SCOPE.

(A) Irrespective of title or headings, the sections of this chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such application.

✓

(B) Nothing in this chapter shall excuse or relieve a licensee or the agent or employee of any licensee in the city from the restrictions, requirements, and penalties of any other regulation of the city or of the state.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

### § 111.04 ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW.

The provisions of the alcoholic beverage control law of the Commonwealth of Kentucky, as contained in KRS Chapters 241 through 244, and all amendments and supplements thereto, are adopted so far as applicable to this chapter, except as otherwise lawfully provided herein.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

## LICENSES

*m*

### § 111.15 TYPES OF LICENSES; FEES.

The following kinds of distilled spirits and malt beverage licenses may be issued by the city and the annual fees for each license shall be as indicated:

Type of License	Fee
(A) Wholesaler (Distilled Spirits and Wine)	\$3,000.00
(B) Retail Distilled Spirits and Wine (Package)	600.00
(C) Distributor (Malt Beverage)	400.00
(D) Retail (Malt Beverage)	
(1) New Applicants	200.00
(2) Renewals	150.00

Type of License	Fee
(E) Retail Drink (Wine)	300.00

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

#### ***Statutory reference:***

*City licenses; fees, see KRS 243.070*

### § 111.16 ISSUANCE OF LICENSE.

(A) Initially, there shall be no more than thirteen (13) retail distilled spirits and wine licenses issued in the city.

(B) The City Administrator, in his sound discretion, shall issue the types of licenses authorized under this subchapter. In exercising his discretion, the City Administrator may consider, in addition to other factors, the location of the proposed premises, the availability of parking facilities to serve the proposed premises, the financial benefit to the city, and the financial stability of the applicant.

(C) No license shall be issued to any person, firm, or corporation who is ineligible for a state license; and no licenses shall be issued to any city law enforcement official.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

### § 111.17 REGULATORY LICENSE FEE IMPOSED.

(A) There is imposed a regulatory license fee upon the gross receipts from sale of alcoholic beverages of each establishment within the city licensed to sell alcoholic beverages in the sum of three percent (3%) of the gross receipts of such establishments. The regulatory license fee is assessed at three percent (3%) based upon the city's estimate as to the cost of reimbursing the city for additional policing and regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses lawfully imposed upon such establishment.

(B) The regulatory license fee described in division (A) of this section shall be collected by the Administrator according to the existing framework of the occupational tax and license fee regulations of the city. Such regulatory license fee shall be payable and collectable quarterly.

(Ord. 0-83-007, passed 4-25-83; Am. Ord. 83-0-14, passed 7-25-83)

***Cross-reference:***

*Collection of license fees by Administrator, see § 115.03*

***Statutory reference:***

*Authorization for regulatory license fee, see KRS 243.075*

## **SALE OF ALCOHOLIC BEVERAGES**

### **§ 111.30 HOURS WHEN SALE PERMITTED.**

(A) (1) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensee's premises, any alcoholic beverage between the following hours:

<b>Day</b>	<b>Prohibited Hours of Sale</b>
Monday	12:00 a.m. and 8:00 a.m.
Tuesday	1:00 a.m. and 8:00 a.m.
Wednesday	1:00 a.m. and 8:00 a.m.
Thursday	1:00 a.m. and 8:00 a.m.
Friday	1:00 a.m. and 8:00 a.m.
Saturday	2:00 a.m. and 8:00 a.m.
Sunday	2:00 a.m. and 12:00 a.m.

(2) In the event that January 1 falls on Monday through Thursday, it shall not be unlawful to sell or offer for sale, at retail or to give away, in or upon any licensee's premises, any alcoholic beverage between 1:00 a.m. and 2:00 a.m.

(B) It shall be unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic beverages in or upon any premises in which alcoholic beverages are sold at retail during the hours within which the sale of such alcoholic beverages is prohibited; provided, that in case of bona fide restaurants, such establishments may be kept open for



business during such hours, but no alcoholic beverages may be sold to, or consumed by the public during such hours.

(C) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensed premises, any alcoholic beverages on the day of any national, state, county, municipal, or school election, including primary elections, during the hours the polls are open, within the political area in which such election is being held.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

### § 111.31 APPROVAL OF PREMISES.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BONA FIDE RESTAURANT.*** Any premises which are kept, used, maintained, advertised, and held out to the general public as premises where meals are prepared and served, for consumption on the premises, on a regular basis and which derives fifty percent (50%) or more of its gross annual income from the sale of food which is prepared, served, and consumed on the premises and which has a minimum seating capacity of fifty (50) people at tables.

***LICENSE.*** Any premises licensed by the city to sell alcoholic beverages on a wholesale or retail basis.

(B) No holder of a retail malt beverage license shall permit the consumption of alcoholic beverages on the licensed premises unless it is a bona fide restaurant.

(C) The City Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until such time as the applicant shall have had its place of business approved by the County Health Department, the City Building Inspector, and State Fire Health Department, the City Building Inspector, and State Fire Marshal; and, no license shall be issued to any person, firm, or corporation for the selling at retail or wholesale of alcoholic beverages at any premises or location which is in violation of any of the city's ordinances and regulations.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

## NUDE OR NEARLY NUDE ACTIVITIES

### § 111.50 DEFINITIONS.

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

***BUSINESS ESTABLISHMENT.*** A business within the city, where liquor, beer, or wine is sold for consumption on the premises pursuant to a retail drink liquor license or retail cereal malt beverage liquor license that has been issued by the city.

***LICENSE.*** A retail drink liquor license or a retail cereal malt beverage liquor license issued by the city.

**LICENSEE.** Any person to whom a retail drink liquor license or a retail cereal malt beverage liquor license has been issued by the city, including the officers, agents, and employees of the licensee.

**LIQUOR ADMINISTRATOR.** The duly appointed Alcoholic Beverage Control Administrator of the city.

**PERSON.** A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.

**PREMISES.** The land and building in and upon which any business establishment regulated by the alcoholic beverage statutes is carried on.

**RETAIL LICENSEE.** Any license, including its officers, agents, and employees, who sells at retail any alcoholic beverage.

(Ord. 0-87-013, passed 7-27-87)

### **§ 111.51 PERFORMING NUDE OR NEARLY NUDE ACTIVITIES.**

It shall be unlawful for and a person is guilty of performing nude or nearly nude activity when that person appears on a business establishment's premises in such a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva, or genitals, or any simulation thereof, or appears on a business establishment's premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or simulation thereof; or has any physical contact with the sexual or other intimate parts of a person whether exposed or unexposed for the purpose of sexual stimulation, gratification, or performance, or does any act which depicts, portrays, or imitates sexual intercourse or any other sexual conduct.

(Ord. 0-87-013, passed 7-27-87) Penalty, see § 111.99

### **§ 111.52 PERMITTING NUDE OR NEARLY NUDE ACTIVITIES.**

A licensee or retail license is guilty of permitting nude or nearly nude activity when having control of the business establishment's premises which it knows or has reasonable cause to know, is being used by any person to appear on the premises in such manner or attire as to expose to view portions of the pubic area, anus, buttocks, vulva, or genitals, or any simulation thereof; or to appear on the premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or any simulation thereof; or has any physical contact with the sexual or other intimate parts of a person whether exposed or unexposed for the purpose of sexual stimulation, gratification, or performance, or does any act which depicts, portrays or imitates sexual intercourse or any other sexual conduct, he permits such activity or fails to make reasonable and timely effort to halt or abate such activity or use.

(Ord. 0-87-013, passed 7-27-87) Penalty, see § 111.99

### **§ 111.53 REVOCATION OR SUSPENSION OF LIQUOR LICENSE FOR VIOLATIONS.**

(A) In the event that a violation of §§ 111.51 or 111.52 occurs, the Liquor Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and 241.190), to determine whether the liquor licensee, at whose business establishment the activity prohibited by this subchapter occurred, shall have his license suspended or revoked.

(B) In the event three (3) or more violations of §§ 111.51 or 111.52 occur at a business establishment within a twelve (12) month period, the Liquor Administrator, after a hearing, shall revoke the retail drink license or retail cereal malt beverage license or both.

(Ord. 0-87-013, passed 7-27-87)

## ***ADMINISTRATION AND ENFORCEMENT***

### **§ 111.65 CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.**

The office of City Alcoholic Beverage Control Administrator is hereby created. All functions of that office shall be the same with respect to city licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board with respect to state licenses and regulations and shall be further subject to the limitations of KRS 241.190.

(Ord. 0-83-007, passed 4-24-83)

#### ***Statutory reference:***

*Appointment, see KRS 241.170 (2)*

*Oath and bond, see KRS 241.180*

### **§ 111.66 INSPECTIONS.**

Police officers of the Police Department shall concurrently have the jurisdiction coextensive with the State Alcoholic Beverage Control Administrator and the City Administrator to inspect any licensed premise without first obtaining a search warrant.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

### **§ 111.67 LICENSEE TO MAINTAIN BOOKS, RECORDS, AND REPORTS.**

(A) Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable rules and regulations of the State Alcoholic Beverage Control Board. Such books and records shall be available at all reasonable times for inspection by the City Administrator and such city employees who may assist the City Administrator in his review.

(B) Every licensee under this chapter who shall sell malt beverages or wine for consumption on the licensee's premises shall keep and maintain adequate books and records which shall accurately reflect the percentage of gross annual income derived from the sale of food which is prepared, served, and consumed on the licensee's premises.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

### **§ 111.68 DELINQUENT TAXES.**

No license to sell alcoholic beverages shall be granted to any person, firm, or corporation who or

which is delinquent in the payment of any taxes due the city at the time of issuing the license; nor shall any license be granted to sell upon any premises upon which there are any delinquent taxes due to the city.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

#### **§ 111.99 PENALTY.**

(A) Unless otherwise provided, any person, firm, or corporation who violates any of the provisions of this chapter or any state statute or regulations pertaining to the sale of alcoholic beverages shall, in addition to any state penalty, be subject to the revocation or suspension of his license.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

(B) Performing nude or nearly nude activities as set forth in § 111.51 or permitting those activities as set forth in § 111.52 is a violation and punishment shall be fixed as set forth in the Kentucky Revised Statutes. The second violation of §§ 111.51 or 111.52 within a twelve (12) month period shall constitute a Class B misdemeanor with punishment as set forth in the Kentucky Revised Statutes. Three (3) or more violations of §§ 111.51 or 111.52 within a twelve (12) month period shall constitute a Class A misdemeanor with punishment as set forth in the Kentucky Revised Statutes.

(Ord. 0-87-013, passed 7-27-87)

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## **CHAPTER 111: ALCOHOLIC BEVERAGES**

### **GENERAL PROVISIONS**

#### **§ 111.01 SHORT TITLE.**

This chapter shall be known and may be cited as the "Pikeville Alcoholic Beverage Control Chapter".

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

#### **§ 111.02 DEFINITIONS.**

Words used throughout this chapter, unless the context requires otherwise, and unless specifically defined herein, shall have the same definitions as those set forth in the Kentucky Alcoholic Beverage Control Law, as contained in KRS Chapters 241 through 244.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

#### **§ 111.03 SCOPE.**

(A) Irrespective of title or headings, the sections of this chapter shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such application.

(B) Nothing in this chapter shall excuse or relieve a licensee or the agent or employee of any licensee in the city from the restrictions, requirements, and penalties of any other regulation of the city or of the state.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

#### **§ 111.04 ADOPTION OF STATE ALCOHOLIC BEVERAGE CONTROL LAW.**

The provisions of the alcoholic beverage control law of the Commonwealth of Kentucky, as contained in KRS Chapters 241 through 244, and all amendments and supplements thereto, are adopted so far as applicable to this chapter, except as otherwise lawfully provided herein.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

### **LICENSES**

#### **§ 111.15 TYPES OF LICENSES; FEES.**

The following kinds of distilled spirits and malt beverage licenses may be issued by the city and the annual fees for each license shall be as indicated:

<b>Type of License</b>	<b>Fee</b>
(A) Wholesaler (Distilled Spirits and Wine)	\$3,000.00
(B) Retail Distilled Spirits and Wine (Package)	600.00
(C) Distributor (Malt Beverage)	400.00
(D) Retail (Malt Beverage)	
(1) New Applicants	200.00
(2) Renewals	150.00
<b>Type of License</b>	<b>Fee</b>
(E) Retail Drink (Wine)	300.00

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

**Statutory reference:**

*City licenses; fees, see KRS 243.070*

**§ 111.16 ISSUANCE OF LICENSE.**

(A) Initially, there shall be no more than thirteen (13) retail distilled spirits and wine licenses issued in the city.

(B) The City Administrator, in his sound discretion, shall issue the types of licenses authorized under this subchapter. In exercising his discretion, the City Administrator may consider, in addition to other factors, the location of the proposed premises, the availability of parking facilities to serve the proposed premises, the financial benefit to the city, and the financial stability of the applicant.

(C) No license shall be issued to any person, firm, or corporation who is ineligible for a state license; and no licenses shall be issued to any city law enforcement official.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

**§ 111.17 REGULATORY LICENSE FEE IMPOSED.**

(A) There is imposed a regulatory license fee upon the gross receipts from

sale of alcoholic beverages of each establishment within the city licensed to sell alcoholic beverages in the sum of three percent (3%) of the gross receipts of such establishments. The regulatory license fee is assessed at three percent (3%) based upon the city's estimate as to the cost of reimbursing the city for additional policing and regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses lawfully imposed upon such establishment.

(B) The regulatory license fee described in division (A) of this section shall be collected by the Administrator according to the existing framework of the occupational tax and license fee regulations of the city. Such regulatory license fee shall be payable and collectable quarterly.

(Ord. 0-83-007, passed 4-25-83; Am. Ord. 83-0-14, passed 7-25-83)

**Cross-reference:**

*Collection of license fees by Administrator, see § 115.03*

**Statutory reference:**

*Authorization for regulatory license fee, see KRS 243.075*

**SALE OF ALCOHOLIC BEVERAGES**

**§ 111.30 HOURS WHEN SALE PERMITTED.**

(A) (1) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensee's premises, any alcoholic beverage between the following hours:

<b>Day</b>	<b>Prohibited Hours of Sale</b>
Monday	12:00 a.m. and 8:00 a.m.
Tuesday	1:00 a.m. and 8:00 a.m.
Wednesday	1:00 a.m. and 8:00 a.m.
Thursday	1:00 a.m. and 8:00 a.m.
Friday	1:00 a.m. and 8:00 a.m.
Saturday	2:00 a.m. and 8:00 a.m.
Sunday	2:00 a.m. and 12:00 a.m.

(2) In the event that January 1 falls on Monday through Thursday, it shall not be unlawful to sell or offer for sale, at retail or to give away, in or upon any licensee's premises, any alcoholic beverage between 1:00 a.m. and 2:00 a.m.

(B) It shall be unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic beverages in or upon any premises in which alcoholic beverages are sold at retail during the hours



within which the sale of such alcoholic beverages is prohibited; provided, that in case of bona fide restaurants, such establishments may be kept open for business during such hours, but no alcoholic beverages may be sold to, or consumed by the public during such hours.

(C) It shall be unlawful to sell or offer for sale, at retail, or to give away, in or upon any licensed premises, any alcoholic beverages on the day of any national, state, county, municipal, or school election, including primary elections, during the hours the polls are open, within the political area in which such election is being held.  
(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

### **§ 111.31 APPROVAL OF PREMISES.**

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BONA FIDE RESTAURANT.** Any premises which are kept, used, maintained, advertised, and held out to the general public as premises where meals are prepared and served, for consumption on the premises, on a regular basis and which derives fifty percent (50%) or more of its gross annual income from the sale of food which is prepared, served, and consumed on the premises and which has a minimum seating capacity of fifty (50) people at tables.

**LICENSE.** Any premises licensed by the city to sell alcoholic beverages on a wholesale or retail basis.

(B) No holder of a retail malt beverage license shall permit the consumption of alcoholic beverages on the licensed premises unless it is a bona fide restaurant.

(C) The City Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until such time as the applicant shall have had its place of business approved by the County Health Department, the City Building Inspector, and State Fire Health Department, the City Building Inspector, and State Fire Marshal; and, no license shall be issued to any person, firm, or corporation for the selling at retail or wholesale of alcoholic beverages at any premises or location which is in violation of any of the city's ordinances and regulations.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

### **NUDE OR NEARLY NUDE ACTIVITIES**

#### **§ 111.50 DEFINITIONS.**

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

**BUSINESS ESTABLISHMENT.** A business within the city, where liquor, beer, or wine is sold for consumption on the premises pursuant to a retail drink liquor license or retail cereal malt beverage liquor license that has been issued by the city.

**LICENSE.** A retail drink liquor license or a retail cereal malt beverage liquor license issued by the city.

**LICENSEE.** Any person to whom a retail drink liquor license or a retail cereal malt beverage liquor license has been issued by the city, including the officers, agents, and employees of the licensee.

**LIQUOR ADMINISTRATOR.** The duly appointed Alcoholic Beverage Control Administrator of the city.

**PERSON.** A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority.

**PREMISES.** The land and building in and upon which any business establishment regulated by the alcoholic beverage statutes is carried on.

**RETAIL LICENSEE.** Any license, including its officers, agents, and employees, who sells at retail any alcoholic beverage.  
(Ord. 0-87-013, passed 7-27-87)

#### **§ 111.51 PERFORMING NUDE OR NEARLY NUDE ACTIVITIES.**

It shall be unlawful for and a person is guilty of performing nude or nearly nude activity when that person appears on a business establishment's premises in such a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva, or genitals, or any simulation thereof, or appears on a business establishment's premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or simulation thereof; or has any physical contact with the sexual or other intimate parts of a person whether exposed or unexposed for the purpose of sexual stimulation, gratification, or performance, or does any act which depicts, portrays, or imitates sexual intercourse or any other sexual conduct.  
(Ord. 0-87-013, passed 7-27-87) Penalty, see § 111.99

#### **§ 111.52 PERMITTING NUDE OR NEARLY NUDE ACTIVITIES.**

A licensee or retail license is guilty of permitting nude or nearly nude activity when having control of the business establishment's premises which it knows or has reasonable cause to know, is being used by any person to appear on the premises in such manner or attire as to expose to view portions of the pubic area, anus, buttocks, vulva, or genitals, or any simulation thereof; or to appear on the premises in such manner or attire as to expose to view any portion of the breast referred to as the areola, nipple, or any simulation thereof; or has any physical contact with the sexual or other intimate parts of a person whether exposed or unexposed for the purpose of sexual stimulation, gratification, or performance, or does any act which depicts, portrays or imitates sexual intercourse or any other sexual conduct, he permits such activity or fails to make reasonable and timely effort to halt or abate such activity or use.  
(Ord. 0-87-013, passed 7-27-87) Penalty, see § 111.99

#### **§ 111.53 REVOCATION OR SUSPENSION OF LIQUOR LICENSE FOR VIOLATIONS.**

(A) In the event that a violation of §§ 111.51 or 111.52 occurs, the Liquor Administrator shall forthwith conduct a hearing pursuant to KRS 243.520 (in conjunction with KRS 241.160 and 241.190), to determine whether the liquor licensee, at whose business establishment the activity prohibited by this subchapter occurred, shall have his license suspended or revoked.

(B) In the event three (3) or more violations of §§ 111.51 or 111.52 occur at a business establishment within a twelve (12) month period, the Liquor Administrator, after a hearing, shall revoke the retail drink license or retail cereal malt beverage license or both.  
(Ord. 0-87-013, passed 7-27-87)

#### **ADMINISTRATION AND ENFORCEMENT**

#### **§ 111.65 CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.**

The office of City Alcoholic Beverage Control Administrator is hereby created. All functions of that office shall be the same with respect to city licenses and regulations as the functions of the Kentucky Alcoholic Beverage Control Board with respect to state licenses and regulations and shall be further subject to the limitations of KRS 241.190.  
(Ord. 0-83-007, passed 4-24-83)

#### **Statutory reference:**

*Appointment, see KRS 241.170 (2)*

*Oath and bond, see KRS 241.180*

**§ 111.66 INSPECTIONS.**

Police officers of the Police Department shall concurrently have the jurisdiction coextensive with the State Alcoholic Beverage Control Administrator and the City Administrator to inspect any licensed premise without first obtaining a search warrant. (Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

**§ 111.67 LICENSEE TO MAINTAIN BOOKS, RECORDS, AND REPORTS.**

(A) Every licensee under this chapter shall keep and maintain adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the reasonable rules and regulations of the State Alcoholic Beverage Control Board. Such books and records shall be available at all reasonable times for inspection by the City Administrator and such city employees who may assist the City Administrator in his review.

(B) Every licensee under this chapter who shall sell malt beverages or wine for consumption on the licensee's premises shall keep and maintain adequate books and records which shall accurately reflect the percentage of gross annual income derived from the sale of food which is prepared, served, and consumed on the licensee's premises.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

**§ 111.68 DELINQUENT TAXES.**

No license to sell alcoholic beverages shall be granted to any person, firm, or corporation who or which is delinquent in the payment of any taxes due the city at the time of issuing the license; nor shall any license be granted to sell upon any premises upon which there are any delinquent taxes due to the city.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88) Penalty, see § 111.99

**§ 111.99 PENALTY.**

(A) Unless otherwise provided, any person, firm, or corporation who violates any of the provisions of this chapter or any state statute or regulations pertaining to the sale of alcoholic beverages shall, in addition to any state penalty, be subject to the revocation or suspension of his license.

(Ord. 0-83-008, passed 5-23-83; Am. Ord. 0-88-003, passed 4-11-88)

(B) Performing nude or nearly nude activities as set forth in § 111.51 or

permitting those activities as set forth in § 111.52 is a violation and punishment shall be fixed as set forth in the Kentucky Revised Statutes. The second violation of §§ 111.51 or 111.52 within a twelve (12) month period shall constitute a Class B misdemeanor with punishment as set forth in the Kentucky Revised Statutes. Three (3) or more violations of §§ 111.51 of 111.52 within a twelve (12) month period shall constitute a Class A misdemeanor with punishment as set forth in the Kentucky Revised Statutes. (Ord. 0-87-013, passed 7-27-87)

STATEMENT OF EMERGENCY REGULATION


Under KRS 13A the administrative body is required to implement this regulation or not have the authority to act. This regulation is necessary for the Alcoholic Beverage Control Board to act in the license issuing process for retail drink liquor licenses in the City of Pikeville, Kentucky. An ordinary regulation will not suffice because of an inordinate delay created thereby in the issuance of retail drink liquor licenses in a city made eligible for these licenses by the General Assembly. This emergency regulation will be replaced by an ordinary administrative regulation which is being filed with the Legislative Research Commission concurrently with the emergency regulation in accordance with House Bill No. 334.

  
EDWARD A. FARRIS,  
Commissioner-Chairman  
Alcoholic Beverage Control Board

**FILED**

7-11-84 @ 2 p.m.  
TO ADMINISTRATIVE REGULATIONS

  
REGULATIONS COMPILER

  
MARTHA LAYNE COLLINS,  
GOVERNOR  
Approved and Countersigned

DATE July 11, 1984

FILED  
JUL 11 1984  
KENTUCKY  
ALCOHOLIC BEVERAGE CONTROL BOARD

PUBLIC PROTECTION AND REGULATION CABINET  
Department of Alcoholic Beverage Control  
(Proposed Regulation)

804 KAR 9:050. Retail Drink Liquor License Quota.

RELATES TO: KRS 241.060, 241.065, 241.075, 243.030

PURUANT TO: KRS 13.082 and 241.060

NECESSITY AND FUNCTION: The express provisions of KRS 241.060(2) enable the Alcoholic Beverage Control Board to limit the number of licenses to be issued in any political subdivision of the state and permit the Board to make reasonable division and subdivisions of the state or any political subdivision into districts for this purpose. Regulation 804 KAR 9:010 establishes a general retail liquor license quota based upon county population for any area within that county in which prohibition has been repealed. Instances may arise, however, in which the quota based on county population permits the issuance of retail liquor licenses in a number totally disproportionate to the population of the area in said county in which prohibition has been repealed. It is, therefore, necessary for the Board to establish individual quotas when such a situation as above described arises.

Section 1. The Alcoholic Beverage Control Board may, for good reason shown, adopt, by regulation, retail liquor license quotas for political subdivisions less than a county where the county quota established by 804 KAR 9:010 would be excessively disproportionate to that based upon the population of the smaller political subdivision. In such instances, the quota set in 804 KAR 9:010(1) and (2) shall be inapplicable. The quota exceptions contained in 804 KAR 9:010, Section 2(1)(2)(3)(4) shall remain in effect and be incorporated herein.

Section 2. Pursuant to the authority herein, the City of Pikeville, having been elevated to third class status by the 1984 Session of the Kentucky General Assembly, the actual resident population of the City of Pikeville being at least 8,000 by virtue of its reclassification to a city of the third class and the resident population of Pike County being 86,307 according to the population projections of the Kentucky State Data Center, Urban Studies Center of the University of Louisville, Kentucky, it is determined that the retail drink liquor license quota established according to 804 KAR 9:010 would create a permissible number of retail drink liquor licenses excessively disproportionate to the population of the City of Pikeville, the retail drink liquor license quota for the City of Pikeville, Kentucky, is, therefore set at eleven (11).

Adopted: July 13, 1984  
Approved as to form and legality:

Catherine C. Staib  
Catherine C. Staib  
General Counsel  
Alcoholic Beverage Control Board

Edward A. Farris  
Edward A. Farris  
Commissioner-Chairman  
Alcoholic Beverage Control Board

Final Approval:

Melvin Wilson  
Melvin Wilson  
Secretary  
Cabinet for Public Protection  
and Regulation

**PUBLIC HEARING SCHEDULED:** A public hearing on the above proposed regulation will be held on Thursday, August 23, 1984, at 10:00 a.m., EDT, in the Hearing Room of the Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky. Those who may be interested in attending, please contact: Bonnie H. Hall, Secretary to the Board, Alcoholic Beverage Control Board, 123 Walnut, Frankfort, Kentucky 40601.