

ALCOHOLIC BEVERAGE CONTROL BOARD

In the matter of:

Order No. R-

**Approval for City of Carlisle, Kentucky,
Alcoholic Beverage Control Ordinance No.
3-1990 (Chapter 113: Alcoholic Beverages)**

ORDER

* * * * *

IT IS HEREBY ORDERED by the Kentucky Alcoholic Beverage Control Board that Ordinance No. 3-1990, entitled Chapter 113: Alcoholic Beverages, passed by the city of Carlisle on February 12, 1990, a copy attached hereto, and marked Exhibit A, and it appearing that said ordinance is consistent with the statutes relating to alcoholic beverage control or other regulations of this Board;

IT IS, ORDERED, that said ordinance be, and the same hereby is **APPROVED** by the Board.

SO ORDERED this the _____ day of June, 1996.

ALCOHOLIC BEVERAGE CONTROL BOARD

**GREG GINTER
CHAIRMAN**

ATTEST:

**CYNTHIA NEWTON, SECRETARY
ALCOHOLIC BEVERAGE CONTROL BOARD**

CHAPTER 113: ALCOHOLIC BEVERAGES

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GENERAL PROVISIONS

§ 113.01 TITLE.

This chapter shall be known and may be cited as the "Economic Development Alcoholic Beverage Control Ordinance" of the city of Carlisle.

(Ord. 3-1990, passed 2-12-90)

§ 113.02 DEFINITIONS.

Words used through this chapter unless the context requires

otherwise, shall have the same definitions as set out in the Kentucky Alcoholic Beverage Control Law (KRS Chapters 241, 242, 243, and 244) of the Commonwealth of Kentucky, and all amendments and supplements thereto, unless specifically defined herein.

"ALCOHOLIC BEVERAGE." Alcoholic brandy, whiskey, rum, gin, beer, ale, porter, wine, and all other spiritous, venous, malt or fermented liquors, liquids and compounds, whether medicated, proprietary, patented or not, and by whatsoever name called, containing more than 1% of alcohol by volume, which are fit for use for beverage purposes.

"BONA FIDE RESTAURANT." Any retail establishment which derives more than 50% of its gross revenues from the sale of food for consumption on the premises for at least one meal per day, including lunch and dinner, and has a minimum seating capacity of 100 persons at tables.

"CARRY-OUT." Any retail establishments which has its purpose, among other things, the sale of alcoholic beverages for consumption off the premises and for the purposes of this chapter, shall include retail package liquor stores. It shall include, but not be limited to, grocery stores, markets, express-type markets by whatever name known, bait shops, fruit and vegetable markets, drug stores and similar premises.

"DISTILLED SPIRITS." Any alcoholic beverage, except malt beverage and wine.

"LICENSE." Any premises licensed by the city to sell alcoholic beverages whether by the drink for consumption on the premises or otherwise, and relates to the sale of any combination of the same.

"MALT BEVERAGE." Any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than $\frac{1}{2}$ of 1% by volume and not more than 4.8% of alcohol by weight or 6.02% of alcohol by volume.

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

"PREMISES." The premises described in the city license issued pursuant to the terms hereof and the applications therefore.

"STATE." The Commonwealth of Kentucky.

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

"TAVERN." Any retail establishment for which the primary purpose of existence is the retail sale of alcoholic beverages for consumption on the premises, derives less than 50% of its gross revenues from the

sale of food; or any retail establishment for which the primary purpose of existence is entertainment, and which may, in addition to entertainment, offer food and alcoholic beverages for consumption on the premises.

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

"WINE." The product of the normal alcoholic fermentation of the juices of fruits, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions. It includes champagne and sparkling and fortified wine of an alcoholic content not to exceed 24% by volume. It includes preparations or mixture vended in retail containers if such preparations or mixture contain not exceeding 15% of alcoholic by volume.

(Ord. 3-1990, passed 2-12-90)

LICENSES

§ 113.20 CLASSIFICATION OF LICENSES.

(A) For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state license described in the attached schedule to Ord. 3-1990, passed 2-12-90. The actions, business, and transactions authorized and permitting thereby and the expiration dates thereof shall be and are the same as those of the state license to which the city license correspond and which are indicated and described in the sections of state law indicated in the attached schedule to Ord. 3-1990, passed 2-12-90. The fees for the city license shall be the maximum allowed by the law as indicated on the attached schedule to Ord. 3-1990, passed 2-12-90.

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

(C) No person, firm, or corporation conducting a place of business in the city patronized by and open to the general public or any private club as defined by KRS 243.270, who does not hold the necessary license or licenses, as herein provided, shall permit any person to, nor shall he, sell, barter, loan, give away, or drink any alcoholic beverages on the premises of his place of business, nor shall any proprietor of any unlicensed premises patronized by and open to the general public, or any agent or employee of that proprietor, have in his possession any alcoholic beverages on any portion of his premises which is open to the general public.

(Ord. 3-1990, passed 2-12-90)

§ 113.21 FORM, CONTENT OF CITY LICENSE.

(A) All city licenses shall be in a form as may be prescribed by the City Council and shall contain:

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, of the licensed premise;
- (5) The name and address of the owner of the building in which the licensed premises are located;
- (6) The expiration date of the license;
- (7) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

(B) Each kind of license shall be printed so as to be readily distinguished from the other kind of licenses available.
(Ord. 3-1990, passed 2-12-90)

§ 113.22 APPLICATION; ISSUANCE.

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

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

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

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

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

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

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

(4) The applicable fee, paid in cash or by certified or cashiers check, for the city license which is the subject of the application.

(B) Applicants for any license involving the sale, manufacture or traffic of any alcoholic beverage shall first advertise their intention to apply for a license by publishing a notice of intention to apply in the local newspaper having the largest circulation at least once within a 30 day period. The applicant shall be responsible for the publication fees.

(C) Application by a bona fide restaurant, which meets the qualifications as herein defined, for a license to sell alcoholic beverages by the drink for consumption on the premises shall be accompanied by records sufficient to establish to the City ABC Administrator that the applicant derives a minimum of 50% of its gross revenues from the sale of food for consumption on the premises for at least one meal per day and has a minimum seating capacity of 100 persons at tables. The City ABC Administrator shall review all records which the applicant restaurant must submit as a part of its application for a license, and the City ABC Administrator shall determine if said restaurant meets the criteria contained herein.

(D) Application by a hotel, motel or inn for a license to sell alcoholic beverages by the drink for consumption on the premises may be issued if it is found by the City ABC Administrator that the hotel, motel or inn contains not less than 50 sleeping units and has dining facilities for not less than 100 persons or a bona fide restaurant open to the general public having dining facilities for not less than 100 persons at tables. Upon application, the City ABC Administrator shall immediately inspect personally the premises and file his report with the City Council that the inspection revealed that the applicant in fact had the requisite number of sleeping units and dining facilities and the City Council may thereafter approve the issuance of said license.

(E) Nothing contained herein shall be in any way interpreted to allow for the sale of alcoholic beverages by the drink for consumption on the premises in connection with any business in which a part of the commercial transaction consists of selling, at retail, staple groceries, or which is used solely as an entertainment facility and does not meet the criteria of a "BONA FIDE RESTAURANT".

(F) It shall be permissible for a licensee, who under KRS 244.330 is permitted to operate one bar, counter or similar contrivance in the licensed premises under the retail drink license, due to modern business practices and the enhancement of economic development and opportunities, particularly associated with meeting or convention business, and the larger interior areas of some licensees and the recreational facilities directly associated therewith, that it may be necessary to provide for more than one bar within the hotel, motel or inn licensed premises under this chapter to effectively serve the patrons at such premises. A supplemental bar may be allowed to the hotel, motel or inn licensee if such licensee can show the ABC Administrator the need for such supplemental bar. A supplemental bar license may be issued to a hotel, motel or inn retail drink licensee upon showing to the City ABC Administrator of good cause and need for the supplemental license, and the license may only be issued for the use on the premises directly associated with the applicant's existing retail drink license as part of the entire business of said license facility.

(Ord. 3-1990, passed 2-12-90)

§ 113.23 APPROVAL OF APPLICATION.

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

(Ord. 3-1990, passed 2-12-90)

§ 113.24 DENIAL OF APPLICATION.

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

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

(B) The applicant and any shareholder, officer, agent, servant, or employee has caused, permitted, or engaged in any act for which the revocation or non-issuance of a state or city license is authorized, including, but not limited to, those acts as are defined by KRS 243.100, 243.450, 243.500, or 244.120.

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

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

(E) In the exercise of sound discretion, the City ABC Administrator determines any cause or reason for refusing to approve any application reasonably related to the purpose and objective of this chapter and the state laws and regulations of the State Alcoholic Beverage Control Board. Among those factors that the City ABC Administrator shall consider in the exercise of his discretion are: public sentiment in the area; number of licensed outlets in the area; potential for future growth; type of area involved; type of transportation available; and financial potential of the area.
(Ord. 3-1990, passed 2-12-90)

§ 113.25 PERSONS WHO SHALL NOT BE LICENSED.

(A) No person shall become a licensee under this chapter who:

(1) Has been convicted of any felony or misdemeanor directly or indirectly attributable to the use of alcoholic beverages within two years preceding the application.

(2) Is under the age of 21 years.

(3) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one year before the date on which the application for the license is made. This division shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state, or to persons licensed on March 7, 1938.

(4) Is a partnership or corporation unless each member of the partnership or each of the directors, principle officers or managers of the corporation or partnership has not been convicted of any misdemeanor or felony directly attributable to the use of alcoholic beverages, is 21 years of age or more, and is a citizen of the United States.

(5) Has had any license issued under KRS 243.100 relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for a cause or has been convicted of a violation of any such statute, until the expiration of two years from the date of the revocation or conviction.

(6) Is a partnership or corporation, if any member of the partnership or any director or principle officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute, until the expiration of two years from the date of the revocation or conviction.

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

(B) No license to sell alcoholic beverages shall be granted to any person, firm, or corporation for the sale of alcoholic beverages on any real property owned or maintained by the city, including, but not limited to, parking lots, sidewalks, roadways, alley ways or streets. The City Council of the city may authorize such sale upon the exercise of sound discretion.

(C) No license to sell alcoholic beverages shall be granted to any person, partnership, firm or corporation who has permitted the use, sale or trafficking of controlled substances as described in KRS Ch. 218A, to take place on the premises whether known by the applicant or unknown. Any such use, sale or trafficking of controlled substances as defined by KRS 218A upon any licensed premises may result in the immediate revocation or suspension of any license issued to the premises, and may further prohibit the named licensee from receiving any license relating to the sale or trafficking of alcoholic beverages within the city for a period of two years thereafter. Any applicant who has been convicted of a offense relating to the use, sale or trafficking in controlled substances as defined in KRS 218A, shall not be issued a license under this chapter for a period of at least two years from the date of the conviction.

(Ord. 3-1990, passed 2-12-90)

§ 113.26 EXCEPTIONS TO APPLICATIONS.

Any resident of the city may file with the City ABC Administrator exceptions to an application for the sale of alcoholic beverages for consumption on the premises and the City ABC Administrator shall conduct a hearing upon the exceptions. The City ABC Administrator shall thereafter reduce his findings and recommendations which shall be presented to the City Council for acceptance, in whole or in part, or rejection in whole or in part. Any party aggrieved by the final action of the City Council may file an appeal with the ABC Board in Frankfort within 30 days from the action of the Council, and no license shall be issued until the matter becomes final and non-appealable. The City Council, in the exercise of sound discretion, may direct the City ABC Administration to issue said license the appeal notwithstanding, if it has been established that the applicant otherwise meets all qualifications as herein specified for issuance of a license for the sale of alcoholic beverages for consumption on the premises.

(Ord. 3-1990, passed 2-12-90)

§ 113.27 HEARINGS.

Should a request for a hearing be made, the City ABC Administrator is to hold said hearing pursuant to the general practice procedures found in the Kentucky Rules of Civil Procedure and the following shall apply:

(A) Definitions. All words are used as defined in the alcoholic beverage control law of Kentucky (KRS Chapters 241, 242, 243, and 244), unless otherwise specified.

(B) Appearances. Any applicant or licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the Board.

(C) Briefs. Briefs may be filed at the request of the ABC Administrator, or at the option of the applicant or licensee.

(D) Rules of Evidence. The rules of evidence governing civil proceedings in courts of the Commonwealth of Kentucky shall govern hearings before the City ABC Administrator; provided, however, that the hearing officer may relax such rules in any case where, in his judgement, the ends of justice will be better served by so doing.

(E) Subpoenas. The City ABC Administrator shall have subpoena power for such hearings and shall at the request of the applicant made with names and addresses of those desired issue with subpoenas.

(F) Transcripts. Upon request and at the costs of the applicant or licensee the hearing may be transcribed.

(G) Decisions. All decisions shall be written and based upon evidence developed at the hearing.
(Ord. 3-1990, passed 2-12-90)

§ 113.28 EXPIRATION DATE; RENEWAL.

All licenses issued pursuant to this chapter shall expire on June 30 of the year following the year in which the license was issued. Application for renewal of licenses shall be submitted no later than 30 days before expiration thereof and shall be made pursuant to § 113.25.
(Ord. 3-1990, passed 2-12-90)

§ 113.29 TRANSFER OF LICENSE, LOST OR DESTROYED.

(A) No license issued by the city to sell alcoholic beverages at retail shall be transferrable or assignable to any other person or any other premises, or to any other part of the building containing the licensed premises, unless the transferee or assignee has submitted application to the Administrator and the same has been approved, as provided for in KRS 243.640 and 243.650.

(B) A lost or destroyed license may be replaced by the Clerk/Treasurer for a fee of \$10 for issuing duplicate license.
(Ord. 3-1990, passed 2-12-90)

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

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

(1) The term "FOOD AND GROCERIES" referred to in this division (A) shall mean:

(a) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption;

(b) Seeds and plants to grow food for personal consumption.

(2) Division (A) shall be effective to each malt beverage retail license which is no longer eligible for a retail malt beverage

(3) The provisions of division (A) shall not apply to any licensed premises which sells no fuel or other marine fuel.

(B) As prohibited in KRS 243.230, no city license shall be issued to sell distilled spirits or wine at retail by the drink or package from any premises used as or in connection with the operation of any business in which a part of the commercial transaction consists of selling at retail staple groceries, or gasoline or lubricating oil. (Ord. 3-1990, passed 2-12-90)

§ 113.31 CONDUCTING BUSINESS WITH MINOR.

No license shall be issued to any person, firm, or corporation at any store or any place of business where the majority of its business consists of selling school books, school supplies, food, lunches, or drinks to minors or to a business that is a penny arcade or similar establishment that receives the majority of its business from minors, regardless of the distance of that store or other place of business from a church, school, or hospital. (Ord. 3-1990, passed 2-12-90)

§ 113.32 APPLICANT TO PAY FOR OWN LICENSE.

The license tax for every license issued under this chapter shall be payable by the person who makes application for that license and to whom is issued the license; and no other person, firm, or corporation shall pay for any license issued under this chapter. In addition to all other penalties provided in this chapter, a violation of this section shall authorize and require the revocation of the license, the tax for which was paid by another, and also the revocation of the license, if any, of the person, firm, or corporation so paying the license fees of another.

(Ord. 3-1990, passed 2-12-90)

§ 113.33 REPORT OF WHOLESALER.

Every wholesaler of alcoholic beverages who sells within the city shall report to the City Clerk, on a form to be provided by the Clerk, the following information.

(A) The names of all retailers to whom alcoholic beverages were sold in the preceding quarter;

(B) The gross revenues received by the wholesaler by each retailer; and

(C) The total quantity of alcoholic beverages sold to each retailer in cans, cases, or kegs, as appropriate provided that the information provided to the City Clerk is calculated to permit the City Clerk to determine the quantities of cases, cans and kegs received by each retailer.

(Ord. 3-1990, passed 2-12-90)

SALE OF ALCOHOLIC BEVERAGES

§ 113.50 HOURS, SUNDAY SALES PROHIBITED.

(A) Premises licensed under this chapter may remain open for business daily as set out below, except that no sale of alcoholic beverages may be made after 12:00 midnight on Saturday until 7:00 a.m. on Monday, and the licensed premises shall not sell any alcoholic beverages on Christmas Day (December 25), nor on any election day during the time when the polls are open. Except as set out below, all persons except for employees, agents or licensees shall be off the premises no later than one hour after the close of sales.

(B) Licensed retail package establishments may remain open for business from 7:00 a.m. until 12:00 midnight prevailing time the same day, except as set out above for Sunday sales.

(C) Licensed by-the-drink establishments may remain open for business from 7:00 a.m. until 1:00 a.m. prevailing time the next day, except as set out above for Sunday sales. A licensed by the drink restaurant may remain open for sales of food on Sunday.

(Ord. 3-1990, passed 2-12-90; Am. Ord. 1-2005, passed 2-14-05)

§ 113.51 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

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

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

(Ord. 3-1990, passed 2-12-90)

§ 113.52 MAINTENANCE OF STATE LICENSE.

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

(Ord. 3-1990, passed 2-12-90)

§ 113.53 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

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

(A) A sign or place card at least 8 x 11 inches in size with the following message printed or displayed thereon in 30 point or larger type:

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

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

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

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

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

(Ord. 3-1990, passed 2-12-90)

§ 113.54 CRIMINAL CONDUCT ON PREMISES PROHIBITED.

A city licensee shall not cause, permit, or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime to other violation of any law, rule or regulation of any governmental agency having jurisdiction thereof or any officer or agency thereof. Any such conduct upon the licensed premises by any person may result in the immediate revocation or suspension of the license, and may subject the licensee to other penalties as more specifically set out hereafter.

(Ord. 3-1990, passed 2-12-90)

§ 113.55 CONDITIONS, PROHIBITIONS AND RESTRICTIONS.

All licenses granted under this chapter shall be subject to the

following conditions, prohibitions and/or restrictions and all other provisions of KRS 241, 242, 243 and 244, other ordinances and regulations of the city applicable thereto:

(A) Every licensee hotel, motel or inn shall be entitled to serve beverages as said licensee is entitled to serve upon the issuance of a license under this chapter and in such room or rooms at banquets, dinners and where meals are served; however, no hotel, motel, or inn shall maintain or operate or permit to be operated more than one bar or room where alcoholic beverages are sold which is open to the general public without first obtaining a separate license for each bar or room which is open to the general public in accordance with this chapter.

(B) Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed at any time on any license premises and no nuisances suffered, permitted or maintained thereon.

(C) No gambling or game of chance shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(D) It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on the premises which is intentionally adjusted so as to receive police messages broadcast from the City Police radio station as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or City ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(E) It shall be unlawful for any licensee under this chapter to sell, to smoke or keep or permit to be sold, smoked or kept upon the licensed premises any marijuana or controlled substances as defined in KRS 218A. It shall be unlawful for a licensee except licensed drug stores, to keep or sell or permit to be sold or used on the licensed premises any narcotic or barbiturate drugs. In addition to other penalties set out in this chapter for the violation of this section, the City ABC Administrator shall also have the authority to revoke the license issued to the premises.

(F) The licensee shall be responsible for maintaining security on his premises which shall include providing adequate outside lighting, to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(G) No license shall be issued to any person, firm or corporation for the sale at retail of any alcoholic beverages at any store or any other place of business where the majority of its business consists of the selling of school books, school supplies, food, lunches or drinks for such minors irrespective of the distance of such store or other place of business from the church, school or hospital.

(H) It shall be unlawful for any licensee under this chapter to give away or offer to give away anything tangible of value as a premium or prize in connection with the sale of alcoholic beverages.

(I) No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

(J) No licensee or agent or employee shall permit any person or persons, other than employees of the licensee, to open any bottle of distilled spirits, wine or malt beverages, and no container of distilled spirits, wine or malt beverages shall be opened nor its contents consumed on the licensed premises unless the licensee holds a retail drink license.

(K) No person under 21 years of age shall enter any premises that is licensed for the sale of alcoholic beverages by the drink for the purpose of purchasing and receiving any alcoholic beverages. No person under 21 years of age shall possess for his or her own use, or purchase or attempt to purchase or have another purchase for him or her, any alcoholic beverage by the drink; no person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages by the drink; no person under 21 years of age shall misrepresent his or her age for the purpose of inducing any licensee or other employee to sell or serve any alcoholic beverages to such person. No person under 21 years of age shall use or attempt to use any false, fraudulent or altered identification card or paper or any document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(Ord. 3-1990, passed 2-12-90)

§ 113.56 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

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

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

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

(2) Prior to the discontinuance of the business at the licensed premises or immediately thereupon if such is due to an act of God, the city licensee delivers to the City ABC Administrator a written statement signed by the City Licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the licensed premises for any of the causes or reasons described herein. (Ord. 3-1990, passed 2-12-90)

§ 113.57 SALES TO BE CONDUCTED OPENLY.

No person holding a license under the provision of this chapter shall sell any alcoholic beverages behind blinds or screens. All sales shall be conducted openly and without any attempt to hide them or screen them from public view. (Ord. 3-1990, passed 2-12-90)

ADMINISTRATION AND ENFORCEMENT

§ 113.70 RIGHT OF ENTRY.

Search and Seizure. Every applicant procuring a license hereby consents to the entry of police or other duly authorized representatives of the city or state at all reasonable hours for the purpose of inspection and search and consents to the removal from the premises of all things and articles there had in violation of city ordinances or state laws, and consents to the introduction of those things and articles in evidence in any prosecution that may be brought for those offenses. (Ord. 3-1990, passed 2-12-90)

§ 113.71 SUSPENSION, REVOCATION OF LICENSE.

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

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

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

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

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

\$1,000 per day. Wholesale liquor licensees: \$400 per day. Wholesale beer licensee, \$100 per day; retail drink liquor licensees, \$25 per day; retail package liquor licenses, \$25 per day; retail beer licensees, \$10 per day; and all remaining licenses, \$10 per day.

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City ABC Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance or occurrence and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard. The hearing shall be conducted by the City ABC Administrator in the city and according to the procedures herein specified for hearings, and in accordance to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City ABC Administrator. The City ABC Administrator shall control and make all decisions in regard to the introductions of evidence and shall hear all arguments in regard thereto. At the conclusions of the hearing, the City ABC Administrator shall issue a written decision in regard thereto and mail a certified copy to the licensee at the address of the licensed premises by certified mail or registered mail.
(Ord. 3-1990, passed 2-12-90)

§ 113.99 PENALTY.

The following penalties shall be in addition to any criminal prosecution instituted in the Nicholas District or Circuit Court against any alleged violator and fines hereunder shall be payable to the City ABC Administrator:

(A) Any person, firm or corporation that holds a license for the retail sale of alcoholic beverages who knowingly provides, by sale or gift, directly or indirectly, alcoholic beverages for the use or consumption by anyone under the age of 21 years, shall for the first offense, be fined in the sum of \$500, and shall have his license suspended for a period of seven days; and for the second offense, his license shall be suspended for a period of fourteen days, and he shall forfeit his bond made at application for the license; and for the third offense shall be subject to a fine of \$2,000 and revocation of his license.

(B) Any person 21 years of age or older, not being a licensee, who shall provide, by sale or gift, alcoholic beverages for the use and consumption by person or persons under the age of 21 years shall be fined, for each offense, the sum of \$500.

(C) Any person who violates any provision of this chapter for which a penalty is not otherwise provided, shall be fined not less than \$10 or more than \$500, or imprisoned in the county jail for not more than six months, or both.
(Ord. 3-1990, passed 2-12-90)

ORDINANCE NO. 3, 1990

A COMPREHENSIVE REGULATORY ORDINANCE OF THE CITY OF CARLISLE,
KENTUCKY RELATING TO THE CONTROL, LICENSING, OPERATION,
ADMINISTRATION AND ENFORCEMENT OF THE SALE AND
CONSUMPTION OF ALCOHOLIC BEVERAGES.

WHEREAS, the Kentucky General Assembly, during its 1988 regular session adopted Senate Bill No. 273, which provided for the sale of alcoholic beverages by the drink for consumption on the premises in cities of the fourth class where prohibition is not in effect; and

WHEREAS, The City Council of the City of Carlisle, Kentucky realizes the need to establish a consistent and more definitive regulatory policy governing the sale and consumption of alcoholic beverages whether by the drink or otherwise; and

WHEREAS, the City Council of the City of Carlisle, Kentucky having determined that an economic hardship exists within the City and that the closely regulated sale of alcoholic beverages by the drink or otherwise could aid economic growth in the city.

NOW, THEREFORE, BE IT ORDAINED by the City of Carlisle, Kentucky as follows:

SECTION 1: This ordinance shall be known and may be cited as the "Economic Development Alcoholic Beverage Control Ordinance" of the City of Carlisle, Kentucky.

SECTION 2: Definitions: Words used through this ordinance, unless the context requires otherwise, shall have the same definitions as set out in the Kentucky Alcoholic Beverage Control Law (KRS Chapters 241,242,243, and 244) of the Commonwealth of Kentucky, and all amendments and supplements thereto, unless specifically defined herein.

2.1 "Alcoholic Beverage" means alcoholic brandy, whiskey, rum, gin, beer, ale, porter, wine, and all other spirituous, venous, malt or fermented liquors, liquids and compounds, whether medicated, proprietary, patented or not, and by whatsoever name called, containing more than one percent (1%) of alcohol by volume, which are fit for use for beverage purposes.

2.2 "Bona Fide Restaurant" means any retail establishment which derives more than 50% of its gross revenues from the sale of food for consumption on the premises for at least one meal per day, including lunch and dinner, and has a minimum seating capacity of 100 persons at tables.

2.3 "Carry-out" means any retail establishment which has its purpose, among other things, the sale of alcoholic beverages for consumption off the premises and for the purposes of this ordinance, shall include retail package liquor stores. It shall include, but not be limited to, grocery stores, markets express-type markets by whatever name known, bait shops, fruit and vegetables markets, drug stores and similar premises.

2.4 "Distilled Spirits" means any alcoholic beverage, except malt beverage and wine.

2.5 "Malt Beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than one-half of one percent (1%) by volume and not more than 4.8% of alcohol by weight or 6.02% of alcohol by volume.

2.6 "Person" means any natural person, corporation, partnership, joint venture, or unincorporated association of persons or any combination thereof, and the shareholders, office, agents, servants, and employees thereof.

2.7 "Premises" means the premises described in the city license issued

2.10 "Tavern" means any retail establishment for which the primary purpose of existence is the retail sale of alcoholic beverages for consumption on the premises, derives less than 50% of its gross revenues from the sale of food; or any retail establishment for which the primary purpose of existence is entertainment, and which may, in addition to entertainment, offer food and/or alcoholic beverages for consumption on the premises.

2.11 "Traffic in alcoholic beverages" means any action, business or transaction in regard to the production, storage, transportation, distribution, sale, delivery, and transfer of alcoholic beverages.

2.12 "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions. It includes champagne and sparkling and fortified wine of an alcoholic content not to exceed 24% by volume. It includes preparations or mixture vended in retail containers if such preparations or mixture contain not exceeding 15% of alcoholic by volume.

SECTION 3: LICENSES.

As used in this section, "License" means any premises licensed by the City to sell alcoholic beverages whether by the drink for consumption on the premises or otherwise, and relates to the sale of any combination of the same.

3.1 For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized thereby in regard to traffic in alcoholic beverages in the City of Carlisle and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the State License described in the attached schedule. The actions, business, and transactions authorized and permitting thereby and the expiration dates thereof shall be and are the same as those of the State License to which the City License correspond and which are indicated and described in the Sections of State Law indicated in the attached schedule. The fees for such City License shall be the maximum allowed by the law as indicated on the attached schedule.

3.2 No person shall cause, permit or engage in any of the actions, business, or transactions authorized by such city and state licenses within the City without both a valid city license and a valid state license therefore.

3.3 No person, firm, or corporation conducting a place of business in the city patronized by and open to the general public or any private club as defined by KRS 243.270, who does not hold the necessary license or licenses, as herein provided, shall permit any person to, or shall he, sell, barter, loan, give away, or drink any alcoholic beverages on the premises of his place of business, nor shall any proprietor of any unlicensed premises patronized by and open to the general public, or any agent or employee of that proprietor, have in his possession any alcoholic beverages on any portion of his premises which is open to the general public.

SECTION 4: FORM AND CONTENT OF CITY LICENSE.

4.1 All city licenses shall be in a form as may be prescribed by the City Council and shall contain:

- (a) The name and address of the licensee;
- (b) The number of the license;
- (c) The type of license;
- (d) A description by street and number, or otherwise, of the licensed premise;
- (e) The name and address of the owner of the building in which the

4.2 Each kind of license shall be printed so as to be readily distinguished from the other kind of licenses available.

SECTION 5. APPLICATION FOR LICENSE AND ISSUANCE:

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

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

- (1) All information required by KRS 243.390 to be contained in the application for state licenses.
- (2) A consent by the applicant to the search of the licensed premises by any peace officer at any time for any purpose, the removal therefrom of any evidence of any crime or other violations of law; and the use thereof in any trial or hearing in regard thereto.
- (3) The names, addresses, photographs, and finger prints of the applicant and all shareholders, officers, agents, servants, and employees thereof.

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

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

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

5.2 Applicants for any license involving the sale, manufacture or traffic of any alcoholic beverage shall first advertise their intention to apply for a license by publishing a Notice of Intention to apply in the local newspaper having the largest circulation a least once within a thirty (30) day period. The applicant shall be responsible for the publication fees.

5.3 Application by a bona fide restaurant, which meets the qualifications as hereinabove defined, for a license to sell alcoholic beverages by the drink for consumption on the premises shall be accompanied by records sufficient to establish to the City ABC Administrator that the applicant derives a minimum of 50% of its gross revenues from the sale of food for consumption on the premises for at least one meal per day and has a minimum seating capacity of one hundred (100) persons at tables. The City ABC Administrator shall review all records which the applicant restaurant must submit as a part of its application for a license, and the City ABC Administrator shall determine if said restaurant meets the criteria contained herein.

5.4 Application by a hotel, motel or inn for a license to sell alcoholic beverages by the drink for consumption on the premises may be issued if it is found by the City ABC Administrator that said hotel, motel or inn contains not less than fifty (50) sleeping units and has dining facilities for not less than one hundred (100) persons or a bona fide restaurant open to the general public

5.5 Nothing contained herein shall be in any way interpreted to allow for the sale of alcoholic beverages by the drink for consumption on the premises in connection with any business in which a part of the commercial transaction consists of selling, at retail, staple groceries, or which is used solely as an entertainment facility and does not meet the criteria of a "bona fide restaurant" as defined herein.

5.6 It shall be permissible for a licensee, who under KRS 244.330 is permitted to operate one bar, counter or similar contrivance in said licensed premises under said retail drink license, due to modern business practices and the enhancement of economic development and opportunities, particularly associated with meeting or convention business, and the larger interior areas of some licensees and the recreational facilities directly associated therewith, that it may be necessary to provide for more than one bar within said hotel/motel/inn licensed premises under this ordinance to effectively serve the patrons at such premises. A supplemental bar may be allowed to said hotel/motel/inn licensee if such licensee can show the ABC Administrator the need for such supplemental bar. A supplemental bar license may be issued to a hotel/motel/inn retail drink licensee upon showing to the City ABC Administrator of good cause and need for the supplemental license, and the license may only be issued for the use on the premises directly associated with the applicant's existing retail drink license as part of the entire business of said license facility.

5.7 Within thirty (30) days of the date of the application for an original city license and fifteen (15) days of the date of any application for renewal of a city license, the City ABC Administrator shall, by mail or personal delivery thereof, notify the applicant, in writing, of either the approval thereof or the disapproval thereof or whether a hearing in regard thereto shall be held thereon.

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

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

(B) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted, or engaged in any act for which the revocation or non-issuance of a state or city license is authorized, including, but not limited to, those acts as are defined by KRS 243.100, 243.450, 243.500, or 244.120;

(C) The applicant and/or any shareholder, officer, agent, servant or employee thereof had a state license or city license which was revoked within two (2) years of the date of application, where the premises or any portion thereof described in a state license or city license revoked during such time;

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

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

(B) Is under the age of 21 years;

(C) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one year before the date on which the application for the license is made. This division shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state, or to persons licensed on March 7, 1938;

(D) Is a partnership or corporation unless each member of the partnership or each of the directors, principle officers or managers of the corporation or partnership has not been convicted of any misdemeanor or felony directly attributable to the use of alcoholic beverages, is 21 years of age or more, and is a citizen of the United States.

(E) Has had any license issued under KRS 243.100 relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for a cause or has been convicted of a violation of any such statute, until the expiration of two years from the date of the revocation or conviction; or

(F) Is a partnership or corporation, if any member of the partnership or any director or principle officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute, until the expiration of two years from the date of the revocation or conviction.

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

6.2 No license to sell alcoholic beverages shall be granted to any person, firm, or corporation for the sale of alcoholic beverages on any real property owned or maintained by the City of Carlisle, Kentucky, including, but not limited to, parking lots, sidewalks, roadways, alley ways or streets. The City Council of the City of Carlisle, Kentucky may authorize such sale upon the exercise of sound discretion.

6.3 No license to sell alcoholic beverages shall be granted to any person, partnership, firm or corporation who has permitted the use, sale or trafficking of controlled substances as described in KRS Chapter 218A, to take place on the premises whether known by the applicant or unknown. Any such use, sale or trafficking of controlled substances as defined by KRS 218A upon any licensed premises may result in the immediate revocation or suspension of any license issued to said premises, and may further prohibit the named licensee from receiving any license relating to the sale or trafficking of alcoholic beverages within the City of Carlisle, Kentucky for a period of two years thereafter. Any applicant who has been convicted of a offense relating to the use, sale or trafficking in controlled substances as defined in KRS 218A, shall not be issued a license under this ordinance for a period of at least two (2) years from the date of such conviction.

SECTION 7. EXCEPTIONS TO LICENSE APPLICATIONS AND HEARINGS:

Any resident of the City of Carlisle may file with the City ABC Administrator Exceptions to an application for the sale of alcoholic beverages for consumption on the premises and the City ABC Administrator shall conduct a hearing upon said Exceptions. The City ABC Administrator shall thereafter reduce his findings and recommendations which shall be presented to the City Council for acceptance, in whole or in part, or rejection in whole or in part. Any party aggrieved by the

SECTION 8. HEARINGS:

Should a request for a hearing be made, the City ABC Administrator is to hold said hearing pursuant to the general practice procedures found in the Kentucky Rules of Civil Procedure and the following shall apply:

(A) Definitions: All words are used as defined in the alcoholic beverage control law of Kentucky (KRS Chapters 241, 242, 243, and 244), unless otherwise specified;

(B) Appearances: Any applicant or licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the Board;

(C) Briefs: Briefs may be filed at the request of the ABC Administrator, or at the option of the applicant or licensee;

(D) Rules of Evidence: The rules of evidence governing civil proceedings in courts of the Commonwealth of Kentucky shall govern hearings before the City ABC Administrator; provided however, that the hearing officer may relax such rules in any case where, in his judgement the ends of justice will be better served by so doing;

(E) Subpoenas: The City ABC Administrator shall have subpoena power for such hearings and shall at the request of the applicant made with names and addresses of those desired issue with subpoenas;

(F) Transcripts: Upon request and at the costs of the applicant or licensee the hearing may be transcribed;

(G) Decisions: All decisions shall be written and based upon evidence developed at the hearing.

SECTION 9. EXPIRATION DATE; FRACTIONAL FEES:

All licenses issued pursuant to this ordinance, shall expire on June 30 of the year following the year in which said license was issued. Application for renewal of licenses shall be submitted no later than thirty (30) days before expiration thereof and shall be made pursuant to Section 6 above.

SECTION 10. TRANSFER OF LICENSE; LOST OR DESTROYED LICENSE:

(A) No license issued by the City to sell alcoholic beverages at retail shall be transferrable or assignable to any other person or any other premises, or to any other part of the building containing the licensed premises, unless the transferee or assignee has submitted application to the Administrator and the same has been approved, as provided for in KRS 243.640 and 243.650.

(B) A lost or destroyed license may be replaced by the Clerk/Tax Collector for a fee of \$10.00 for issuing duplicate license.

SECTION 11. PREMISES SELLING GROCERIES, GASOLINE, AND THE LIKE PROHIBITED FROM OBTAINING LICENSES:

(A) As prohibited in KRS 243.280, no City license shall be issued to sell malt beverages at retail within or upon any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted unless there is continuously maintained an inventory on the premises for sale at retail of not less than \$5,000.00 of food, groceries, and related products valued at costs.

(1) The term "food and groceries" referred to in this division

(A) shall mean:

- (3) The provisions of this division (A) shall not apply to any licensed premises which sells no fuel or other marine fuel.

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

SECTION 12. PREMISES DOING MAJORITY OF BUSINESS WITH MINORS PROHIBITED FROM OBTAINING LICENSE:

No license shall be issued to any person, firm, or corporation at any store or any place of business where the majority of its business consists of selling school books, school supplies, food, lunches, or drinks to minors or to a business that is a penny arcade or similar establishment that receives the majority of its business from minors, regardless of the distance of that store or other place of business from a church, school, or hospital.

SECTION 13. APPLICANT TO PAY FOR OWN LICENSE:

The license tax for every license issued under this Chapter shall be payable by the person who makes application for that license and to whom is issued the license; and no other person, firm, or corporation shall pay for any license issued under this Chapter. In addition to all other penalties provided in this Chapter, a violation of this Section shall authorize and require the revocation of the license, the tax for which was paid by another, and also the revocation of the license, if any, of the person, firm, or corporation so paying the license fees of another.

SECTION 14. REPORT OF WHOLESALER:

Every wholesaler of alcoholic beverages who sells within the city shall report to the City Clerk, on a form to be provided by the Clerk, the following information:

- (A) The names of all retailers to whom alcoholic beverages were sold in the preceding quarter;
- (B) The gross revenues received by the wholesaler by each retailer; and
- (C) The total quantity of alcoholic beverages sold to each retailer in cans, cases, or kegs, as appropriate provided that the information provided to the city clerk is calculated to permit the city clerk to determine the quantities of cases, cans and kegs received by each retailer.

SECTION 15. HOURS:

Premises licensed under this ordinance may remain open for business daily as set out below, except that no sale of alcoholic beverages may be made after 12:00 Midnight on Saturday until 8:00 A.M. on Monday, and said licensed premises shall not sell any alcoholic beverages on Christmas Day (December 25), nor on any election day during the time when the polls are open. Except as set out below, all persons except for employees, agents or licensees shall be off the premises no later than one hour after the close of sales.

(A) Licensed retail package establishments may remain open for business from 8:00 A.M. until 12:00 Midnight prevailing time the same day, except as set out above for Sunday sales.

(B) Licensed by-the-drink establishments may remain open for business from 8:00 A.M. until 1:00 A.M. prevailing time the next day, except as set out above for Sunday sales. A licensed by the drink restaurant may remain open for sales of food on Sunday.

and the actions, business, and transactions conducted thereon subsequent to the issuance of a State License therefore and prior to the expiration, revocation, or suspension thereof which are hereby incorporated herein and made applicable to all city licenses corresponding thereto, the premises described therein and the actions, business, and transactions conducted thereon; and the city licensee shall comply fully therewith.

SECTION 17. MAINTENANCE OF STATE LICENSE:

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

SECTION 18. DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS:

As required by KRS 244.083, a City Licensee who has a valid city retail distilled spirits, wine, or malt business license shall cause to be displayed in a conspicuous and prominent place that they may be seen and observed by all persons entering the licensed premises:

(A) A sign or place card at least 8 inches x 11 inches in size with the following message printed or displayed thereon in 30. or larger type:

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

- (a) Enter licensed premises buy or to have served or delivered to them any alcoholic beverages; or
- (b) Possess or purchase to attempt to purchase any alcoholic beverages; or
- (c) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages."

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

SECTION 19. CRIMINAL CONDUCT ON PREMISES PROHIBITED:

A City Licensee shall not cause, permit, or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime or other violation of any law, rule or regulation of any governmental agency having jurisdiction thereof or any officer or agency thereof. Any such conduct upon the licensed premises by any person may result in the immediate revocation or suspension of the license, and may subject the licensee to other penalties as more specifically set out hereafter.

SECTION 20. CONDITIONS, PROHIBITIONS AND RESTRICTIONS:

All licenses granted under this ordinance shall be subject to the following conditions, prohibitions and/or restrictions and all other provisions of KRS 241, 242, 243 and 244, other ordinances and regulations of the City applicable thereto:

(C) No gambling or game of chance shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(D) It shall be unlawful for any licensee licensed under this ordinance to have or maintain any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from the Carlisle City Police Radio Station as it is now or may hereinafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or City ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(E) It shall be unlawful for any licensee under this ordinance to sell, to smoke or keep or permit to be sold, smoked or kept upon the licensed premises any marijuana or controlled substances as defined in KRS 218A. It shall be unlawful for a licensee except licensed drug stores, to keep or sell or permit to be sold or used on the licensed premises any narcotic or barbiturate drugs. In addition to other penalties set out in this ordinance for the violation of this section, the City ABC Administrator shall also have the authority to revoke the license issued to said premises.

(F) The licensee shall be responsible for maintaining security on his premises which shall include providing adequate outside lighting, to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(G) No license shall be issued to any person, firm or corporation for the sale at retail of any alcoholic beverages at any store or any other place of business where the majority of its business consists of the selling of school books, school supplies, food, lunches or drinks for such minors irrespective of the distance of such store or other place of business from the church, school or hospital.

(H) It shall be unlawful for any licensee under this ordinance to give away or offer to give away anything tangible of value as a premium or prize in connection with the sale of alcoholic beverages.

(I) No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

(J) No licensee or agent or employee shall permit any person or persons, other than employees of the licensee, to open any bottle of distilled spirits, wine or malt beverages, and no container of distilled spirits, wine or malt beverages shall be opened nor its contents consumed on the licensed premises unless the licensee holds a retail drink license.

(K) No person under twenty-one (21) years of age shall enter any premises that is licensed for the sale of alcoholic beverages by the drink for the purpose of purchasing and receiving any alcoholic beverages. No person under twenty-one (21) years of age shall possess for his or her own use, or purchase or attempt to purchase or have another purchase for him or her, any alcoholic beverage by the drink; no person shall aid or assist any person under twenty-one (21) years of age in purchasing or having delivered or served to him or her any alcoholic beverages by the drink; no person under twenty-one (21) years of age shall misrepresent his or her age for the purpose of inducing any licensee or other employee to sell or serve any alcoholic beverages to such person. No person under twenty-one (21) years of age shall use or attempt to use any false, fraudulent or altered identification card or paper or any document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

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

- (1) The city licensee is unable to continue in business at the premises for which a license is issued due to an act of God; casualty, the acquisition of the premises by any Federal, State, City or other governmental agency under power of eminent domain; acquisition of any private corporation through the power of eminent domain granted to it, whether such action is voluntary or involuntary; or a loss of lease through failure of the landlord to renew the existing lease; and
- (2) Prior to the discontinuance of the business at the licensed premises or immediately thereupon if such is due to an act of God, the city licensee delivers to the City ABC Administrator a written statement signed by the City Licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the licensed premises for any of the causes or reasons described herein.

SECTION 22. SALES TO BE CONDUCTED OPENLY:

No person holding a license under the provision of this Chapter shall sell any alcoholic beverages behind blinds or screens. All sales shall be conducted openly and without any attempt to hide them or screen them from public view.

SECTION 23. RIGHT OF ENTRY:

Search and Seizure:

Every applicant procuring a license hereby consents to the entry of police or other duly authorized representatives of the city or state at all reasonable hours for the purpose of inspection and search and consents to the removal from the premises of all things and articles there had in violation of city ordinances or state laws, and consents to the introduction of those things and articles in evidence in any prosecution that may be brought for those offenses.

SECTION 24. SUSPENSION, REVOCATION OF LICENSE:

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

- (1) Any violations of the provisions of this Chapter or ordinance or any other alcoholic beverage control ordinance of the city.
- (2) Any violation of any provision of state law in regard to alcoholic beverages or other rules and regulations of the State Alcoholic Beverage Control Board in regard thereto; or
- (3) Any other cause, reason or circumstance for which a state license may be revoked or suspended by the Board.

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

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

SECTION 25. PENALTIES:

The following penalties shall be in addition to any criminal prosecution instituted in the Nicholas District or Circuit Court against any alleged violator and fines hereunder shall be payable to the City ABC Administrator:

(A) Any person, firm or corporation that holds a license for the retail sale of alcoholic beverages who knowingly provides, by sale or gift, directly or indirectly alcoholic beverages for the use or consumption by any one under the age of twenty-one (21) years, shall for the first offense, be fined in the sum of \$500.00, and shall have his license suspended for a period of seven days; and for the second offense, his license shall be suspended for a period of fourteen days, and he shall forfeit his bond made at application for the license; and for the third offense shall be subject to a fine of \$2,000.00 and revocation of his license.

(B) Any person twenty-one (21) years of age or older, not being a licensee, who shall provide, by sale or gift, alcoholic beverages for the use and consumption by person or persons under the age of twenty-one (21) years shall be fined, for each offense, the sum of \$500.00.

(C) Any person who violates any provision of this ordinance for which a penalty is not otherwise provided, shall be fined not less than \$10.00 or more than \$500.00, or imprisoned in the county jail for not more than six month, or both.

SECTION 26. SEVERABILITY:

Acton by a court of competent jurisdiction declaring any section, subsection, phrase or word of this ordinance to be invalid, unconstitutional and/or void shall not affect the remainder of this ordinance which shall remain in force and effect.

SECTION 27. CONFLICTS:

All ordinances or any parts in conflict with the provisions herein are expressly repealed to the extent of such conflict.

SECTION 28. FORCE AND EFFECT:

That this ordinance shall become effective upon its passage, approval, and publication as required by law.

Adopted, this the 12 day of Februrary, 1990.

Passed on First Reading January 24, 1990

Adopted on Second Reading February 12, 1990

Signed by Mayor February 13, 1990

Recorded by Clerk February 13, 1990

CHAPTER 113: ALCOHOLIC BEVERAGES

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GENERAL PROVISIONS

§ 113.01 TITLE.

This chapter shall be known and may be cited as the "Economic Development Alcoholic Beverage Control Ordinance" of the city of Carlisle.

(Ord. 3-1990, passed 2-12-90)

§ 113.02 DEFINITIONS.

Words used through this chapter unless the context requires

otherwise, shall have the same definitions as set out in the Kentucky Alcoholic Beverage Control Law (KRS Chapters 214, 242, 243, and 244) of the Commonwealth of Kentucky, and all amendments and supplements thereto, unless specifically defined herein.

"ALCOHOLIC BEVERAGE." Alcoholic brandy, whiskey, rum, gin, beer, ale, porter, wine, and all other spiritous, venous, malt or fermented liquors, liquids and compounds, whether medicated, proprietary, patented or not, and by whatsoever name called, containing more than 1% of alcohol by volume, which are fit for use for beverage purposes.

"BONA FIDE RESTAURANT." Any retail establishment which derives more than 50% of its gross revenues from the sale of food for consumption on the premises for at least one meal per day, including lunch and dinner, and has a minimum seating capacity of 100 persons at tables.

"CARRY-OUT." Any retail establishments which has its purpose, among other things, the sale of alcoholic beverages for consumption off the premises and for the purposes of this chapter, shall include retail package liquor stores. It shall include, but not be limited to, grocery stores, markets, express-type markets by whatever name known, bait shops, fruit and vegetable markets, drug stores and similar premises.

"DISTILLED SPIRITS." Any alcoholic beverage, except malt beverage and wine.

"LICENSE." Any premises licensed by the city to sell alcoholic beverages whether by the drink for consumption on the premises or otherwise, and relates to the sale of any combination of the same.

"MALT BEVERAGE." Any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than $\frac{1}{2}$ of 1% by volume and not more than 4.8% of alcohol by weight or 6.02% of alcohol by volume.

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

"PREMISES." The premises described in the city license issued pursuant to the terms hereof and the applications therefore.

"STATE." The Commonwealth of Kentucky.

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

"TAVERN." Any retail establishment for which the primary purpose of existence is the retail sale of alcoholic beverages for consumption on the premises, derives less than 50% of its gross revenues from the

sale of food; or any retail establishment for which the primary purpose of existence is entertainment, and which may, in addition to entertainment, offer food and alcoholic beverages for consumption on the premises.

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

"WINE." The product of the normal alcoholic fermentation of the juices of fruits, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions. It includes champagne and sparkling and fortified wine of an alcoholic content not to exceed 24% by volume. It includes preparations or mixture vended in retail containers if such preparations or mixture contain not exceeding 15% of alcoholic by volume.

(Ord. 3-1990, passed 2-12-90)

LICENSES

§ 113.20 CLASSIFICATION OF LICENSES.

(A) For the privilege of causing, permitting and engaging in the actions, business, and transactions authorized in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state license described in the attached schedule to Ord. 3-1990, passed 2-12-90. The actions, business, and transactions authorized and permitting thereby and the expiration dates thereof shall be and are the same as those of the state license to which the city license correspond and which are indicated and described in the sections of state law indicated in the attached schedule to Ord. 3-1990, passed 2-12-90. The fees for the city license shall be the maximum allowed by the law as indicated on the attached schedule to Ord. 3-1990, passed 2-12-90.

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

(C) No person, firm, or corporation conducting a place of business in the city patronized by and open to the general public or any private club as defined by KRS 243.270, who does not hold the necessary license or licenses, as herein provided, shall permit any person to, nor shall he, sell, barter, loan, give away, or drink any alcoholic beverages on the premises of his place of business, nor shall any proprietor of any unlicensed premises patronized by and open to the general public, or any agent or employee of that proprietor, have in his possession any alcoholic beverages on any portion of his premises which is open to the general public.

(Ord. 3-1990, passed 2-12-90)

§ 113.21 FORM, CONTENT OF CITY LICENSE.

(A) All city licenses shall be in a form as may be prescribed by the City Council and shall contain:

(1) The name and address of the licensee;

(2) The number of the license;

(3) The type of license;

(4) A description by street and number, or otherwise, of the licensed premise;

(5) The name and address of the owner of the building in which the licensed premises are located;

(6) The expiration date of the license;

(7) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

(B) Each kind of license shall be printed so as to be readily distinguished from the other kind of licenses available.

(Ord. 3-1990, passed 2-12-90)

§ 113.22 APPLICATION; ISSUANCE.

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

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

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

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

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

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

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

(4) The applicable fee, paid in cash or by certified or cashiers check, for the city license which is the subject of the application.

(B) Applicants for any license involving the sale, manufacture or traffic of any alcoholic beverage shall first advertise their intention to apply for a license by publishing a notice of intention to apply in the local newspaper having the largest circulation at least once within a 30 day period. The applicant shall be responsible for the publication fees.

(C) Application by a bona fide restaurant, which meets the qualifications as herein defined, for a license to sell alcoholic beverages by the drink for consumption on the premises shall be accompanied by records sufficient to establish to the City ABC Administrator that the applicant derives a minimum of 50% of its gross revenues from the sale of food for consumption on the premises for at least one meal per day and has a minimum seating capacity of 100 persons at tables. The City ABC Administrator shall review all records which the applicant restaurant must submit as a part of its application for a license, and the City ABC Administrator shall determine if said restaurant meets the criteria contained herein.

(D) Application by a hotel, motel or inn for a license to sell alcoholic beverages by the drink for consumption on the premises may be issued if it is found by the City ABC Administrator that the hotel, motel or inn contains not less than 50 sleeping units and has dining facilities for not less than 100 persons or a bona fide restaurant open to the general public having dining facilities for not less than 100 persons at tables. Upon application, the City ABC Administrator shall immediately inspect personally the premises and file his report with the City Council that the inspection revealed that the applicant in fact had the requisite number of sleeping units and dining facilities and the City Council may thereafter approve the issuance of said license.

(E) Nothing contained herein shall be in any way interpreted to allow for the sale of alcoholic beverages by the drink for consumption on the premises in connection with any business in which a part of the commercial transaction consists of selling, at retail, staple groceries, or which is used solely as an entertainment facility and does not meet the criteria of a "BONA FIDE RESTAURANT".

(F) It shall be permissible for a licensee, who under KRS 244.330 is permitted to operate one bar, counter or similar contrivance in the licensed premises under the retail drink license, due to modern business practices and the enhancement of economic development and opportunities, particularly associated with meeting or convention business, and the larger interior areas of some licensees and the recreational facilities directly associated therewith, that it may be necessary to provide for more than one bar within the hotel, motel or inn licensed premises under this chapter to effectively serve the patrons at such premises. A supplemental bar may be allowed to the hotel, motel or inn licensee if such licensee can show the ABC Administrator the need for such supplemental bar. A supplemental bar license may be issued to a hotel, motel or inn retail drink licensee upon showing to the City ABC Administrator of good cause and need for the supplemental license, and the license may only be issued for the use on the premises directly associated with the applicant's existing retail drink license as part of the entire business of said license facility.

(Ord. 3-1990, passed 2-12-90)

§ 113.23 APPROVAL OF APPLICATION.

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

(Ord. 3-1990, passed 2-12-90)

§ 113.24 DENIAL OF APPLICATION.

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

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

(B) The applicant and any shareholder, officer, agent, servant, or employee has caused, permitted, or engaged in any act for which the revocation or non-issuance of a state or city license is authorized, including, but not limited to, those acts as are defined by KRS 243.100, 243.450, 243.500, or 244.120.

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

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

(E) In the exercise of sound discretion, the City ABC Administrator determines any cause or reason for refusing to approve any application reasonably related to the purpose and objective of this chapter and the state laws and regulations of the State Alcoholic Beverage Control Board. Among those factors that the City ABC Administrator shall consider in the exercise of his discretion are: public sentiment in the area; number of licensed outlets in the area; potential for future growth; type of area involved; type of transportation available; and financial potential of the area. (Ord. 3-1990, passed 2-12-90)

§ 113.25 PERSONS WHO SHALL NOT BE LICENSED.

(A) No person shall become a licensee under this chapter who:

(1) Has been convicted of any felony or misdemeanor directly or indirectly attributable to the use of alcoholic beverages within two years preceding the application.

(2) Is under the age of 21 years.

(3) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one year before the date on which the application for the license is made. This division shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state, or to persons licensed on March 7, 1938.

(4) Is a partnership or corporation unless each member of the partnership or each of the directors, principle officers or managers of the corporation or partnership has not been convicted of any misdemeanor or felony directly attributable to the use of alcoholic beverages, is 21 years of age or more, and is a citizen of the United States.

(5) Has had any license issued under KRS 243.100 relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for a cause or has been convicted of a violation of any such statute, until the expiration of two years from the date of the revocation or conviction.

(6) Is a partnership or corporation, if any member of the partnership or any director or principle officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute, until the expiration of two years from the date of the revocation or conviction.

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

(B) No license to sell alcoholic beverages shall be granted to any person, firm, or corporation for the sale of alcoholic beverages on any real property owned or maintained by the city, including, but not limited to, parking lots, sidewalks, roadways, alley ways or streets. The City Council of the city may authorize such sale upon the exercise of sound discretion.

(C) No license to sell alcoholic beverages shall be granted to any person, partnership, firm or corporation who has permitted the use, sale or trafficking of controlled substances as described in KRS Ch. 218A, to take place on the premises whether known by the applicant or unknown. Any such use, sale or trafficking of controlled substances as defined by KRS 218A upon any licensed premises may result in the immediate revocation or suspension of any license issued to the premises, and may further prohibit the named licensee from receiving any license relating to the sale or trafficking of alcoholic beverages within the city for a period of two years thereafter. Any applicant who has been convicted of a offense relating to the use, sale or trafficking in controlled substances as defined in KRS 218A, shall not be issued a license under this chapter for a period of at least two years from the date of the conviction.

(Ord. 3-1990, passed 2-12-90)

§ 113.26 EXCEPTIONS TO APPLICATIONS.

Any resident of the city may file with the City ABC Administrator exceptions to an application for the sale of alcoholic beverages for consumption on the premises and the City ABC Administrator shall conduct a hearing upon the exceptions. The City ABC Administrator shall thereafter reduce his findings and recommendations which shall be presented to the City Council for acceptance, in whole or in part, or rejection in whole or in part. Any party aggrieved by the final action of the City Council may file an appeal with the ABC Board in Frankfort within 30 days from the action of the Council, and no license shall be issued until the matter becomes final and non-appealable. The City Council, in the exercise of sound discretion, may direct the City ABC Administration to issue said license the appeal notwithstanding, if it has been established that the applicant otherwise meets all qualifications as herein specified for issuance of a license for the sale of alcoholic beverages for consumption on the premises.

(Ord. 3-1990, passed 2-12-90)

§ 113.27 HEARINGS.

Should a request for a hearing be made, the City ABC Administrator is to hold said hearing pursuant to the general practice procedures found in the Kentucky Rules of Civil Procedure and the following shall apply:

(A) Definitions. All words are used as defined in the alcoholic beverage control law of Kentucky (KRS Chapters 241, 242, 243, and 244), unless otherwise specified.

(B) Appearances. Any applicant or licensee may appear and be heard in person, or by duly appointed attorney, and may produce under oath evidence relative and material to matters before the Board.

(C) Briefs. Briefs may be filed at the request of the ABC Administrator, or at the option of the applicant or licensee.

(D) Rules of Evidence. The rules of evidence governing civil proceedings in courts of the Commonwealth of Kentucky shall govern hearings before the City ABC Administrator; provided, however, that the hearing officer may relax such rules in any case where, in his judgement, the ends of justice will be better served by so doing.

(E) Subpoenas. The City ABC Administrator shall have subpoena power for such hearings and shall at the request of the applicant made with names and addresses of those desired issue with subpoenas.

(F) Transcripts. Upon request and at the costs of the applicant or licensee the hearing may be transcribed.

(G) Decisions. All decisions shall be written and based upon evidence developed at the hearing.

(Ord. 3-1990, passed 2-12-90)

§ 113.28 EXPIRATION DATE; RENEWAL.

All licenses issued pursuant to this chapter shall expire on June 30 of the year following the year in which the license was issued. Application for renewal of licenses shall be submitted no later than 30 days before expiration thereof and shall be made pursuant to § 113.25. (Ord. 3-1990, passed 2-12-90)

§ 113.29 TRANSFER OF LICENSE, LOST OR DESTROYED.

(A) No license issued by the city to sell alcoholic beverages at retail shall be transferrable or assignable to any other person or any other premises, or to any other part of the building containing the licensed premises, unless the transferee or assignee has submitted application to the Administrator and the same has been approved, as provided for in KRS 243.640 and 243.650.

(B) A lost or destroyed license may be replaced by the Clerk/Treasurer for a fee of \$10 for issuing duplicate license. (Ord. 3-1990, passed 2-12-90)

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

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

(1) The term "FOOD AND GROCERIES" referred to in this division (A) shall mean:

(a) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption;

(b) Seeds and plants to grow food for personal consumption.

(2) Division (A) shall be effective to each malt beverage retail license which is no longer eligible for a retail malt beverage

(3) The provisions of division (A) shall not apply to any licensed premises which sells no fuel or other marine fuel.

(B) As prohibited in KRS 243.230, no city license shall be issued to sell distilled spirits or wine at retail by the drink or package from any premises used as or in connection with the operation of any business in which a part of the commercial transaction consists of selling at retail staple groceries, or gasoline or lubricating oil.
(Ord. 3-1990, passed 2-12-90)

§ 113.31 CONDUCTING BUSINESS WITH MINOR.

No license shall be issued to any person, firm, or corporation at any store or any place of business where the majority of its business consists of selling school books, school supplies, food, lunches, or drinks to minors or to a business that is a penny arcade or similar establishment that receives the majority of its business from minors, regardless of the distance of that store or other place of business from a church, school, or hospital.
(Ord. 3-1990, passed 2-12-90)

§ 113.32 APPLICANT TO PAY FOR OWN LICENSE.

The license tax for every license issued under this chapter shall be payable by the person who makes application for that license and to whom is issued the license; and no other person, firm, or corporation shall pay for any license issued under this chapter. In addition to all other penalties provided in this chapter, a violation of this section shall authorize and require the revocation of the license, the tax for which was paid by another, and also the revocation of the license, if any, of the person, firm, or corporation so paying the license fees of another.
(Ord. 3-1990, passed 2-12-90)

§ 113.33 REPORT OF WHOLESALER.

Every wholesaler of alcoholic beverages who sells within the city shall report to the City Clerk, on a form to be provided by the Clerk, the following information.

(A) The names of all retailers to whom alcoholic beverages were sold in the preceding quarter;

(B) The gross revenues received by the wholesaler by each retailer; and

(C) The total quantity of alcoholic beverages sold to each retailer in cans, cases, or kegs, as appropriate provided that the information provided to the City Clerk is calculated to permit the City Clerk to determine the quantities of cases, cans and kegs received by each retailer.

(Ord. 3-1990, passed 2-12-90)

SALE OF ALCOHOLIC BEVERAGES

§ 113.50 HOURS, SUNDAY SALES PROHIBITED.

(A) Premises licensed under this chapter may remain open for business daily as set out below, except that no sale of alcoholic beverages may be made after 12:00 midnight on Saturday until 8:00 a.m. on Monday, and the licensed premises shall not sell any alcoholic beverages on Christmas Day (December 25), nor on any election day during the time when the polls are open. Except as set out below, all persons except for employees, agents or licensees shall be off the premises no later than one hour after the close of sales.

(B) Licensed retail package establishments may remain open for business from 8:00 a.m. until 12:00 midnight prevailing time the same day, except as set out above for Sunday sales.

(C) Licensed by-the-drink establishments may remain open for business from 8:00 a.m. until 1:00 a.m. prevailing time the next day, except as set out above for Sunday sales. A licensed by the drink restaurant may remain open for sales of food on Sunday.

(Ord. 3-1990, passed 2-12-90)

§ 113.51 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

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

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

(Ord. 3-1990, passed 2-12-90)

§ 113.52 MAINTENANCE OF STATE LICENSE.

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

(Ord. 3-1990, passed 2-12-90)

§ 113.53 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

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

(A) A sign or place card at least 8 x 11 inches in size with the following message printed or displayed thereon in 30 point or larger type:

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

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

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

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

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

(Ord. 3-1990, passed 2-12-90)

§ 113.54 CRIMINAL CONDUCT ON PREMISES PROHIBITED.

A city licensee shall not cause, permit, or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime to other violation of any law, rule or regulation of any governmental agency having jurisdiction thereof or any officer or agency thereof. Any such conduct upon the licensed premises by any person may result in the immediate revocation or suspension of the license, and may subject the licensee to other penalties as more specifically set out hereafter.

(Ord. 3-1990, passed 2-12-90)

§ 113.55 CONDITIONS, PROHIBITIONS AND RESTRICTIONS.

All licenses granted under this chapter shall be subject to the

following conditions, prohibitions and/or restrictions and all other provisions of KRS 241, 242, 243 and 244, other ordinances and regulations of the city applicable thereto:

(A) Every licensee hotel, motel or inn shall be entitled to serve beverages as said licensee is entitled to serve upon the issuance of a license under this chapter and in such room or rooms at banquets, dinners and where meals are served; however, no hotel, motel, or inn shall maintain or operate or permit to be operated more than one bar or room where alcoholic beverages are sold which is open to the general public without first obtaining a separate license for each bar or room which is open to the general public in accordance with this chapter.

(B) Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed at any time on any license premises and no nuisances suffered, permitted or maintained thereon.

(C) No gambling or game of chance shall be permitted in any form on such licensed premises. Dice, slot machines, or any device of chance is prohibited and shall not be kept on such premises.

(D) It shall be unlawful for any licensee licensed under this chapter to have or maintain any radio receiving apparatus on the premises which is intentionally adjusted so as to receive police messages broadcast from the City Police radio station as it is now or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police or City ABC Administrator shall have the authority to confiscate any and all such radio receiving apparatus.

(E) It shall be unlawful for any licensee under this chapter to sell, to smoke or keep or permit to be sold, smoked or kept upon the licensed premises any marijuana or controlled substances as defined in KRS 218A. It shall be unlawful for a licensee except licensed drug stores, to keep or sell or permit to be sold or used on the licensed premises any narcotic or barbiturate drugs. In addition to other penalties set out in this chapter for the violation of this section, the City ABC Administrator shall also have the authority to revoke the license issued to the premises.

(F) The licensee shall be responsible for maintaining security on his premises which shall include providing adequate outside lighting, to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premises. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(G) No license shall be issued to any person, firm or corporation for the sale at retail of any alcoholic beverages at any store or any other place of business where the majority of its business consists of the selling of school books, school supplies, food, lunches or drinks for such minors irrespective of the distance of such store or other place of business from the church, school or hospital.

(H) It shall be unlawful for any licensee under this chapter to give away or offer to give away anything tangible of value as a premium or prize in connection with the sale of alcoholic beverages.

(I) No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee permit any drunk or intoxicated person to remain on the licensed premises.

(J) No licensee or agent or employee shall permit any person or persons, other than employees of the licensee, to open any bottle of distilled spirits, wine or malt beverages, and no container of distilled spirits, wine or malt beverages shall be opened nor its contents consumed on the licensed premises unless the licensee holds a retail drink license.

(K) No person under 21 years of age shall enter any premises that is licensed for the sale of alcoholic beverages by the drink for the purpose of purchasing and receiving any alcoholic beverages. No person under 21 years of age shall possess for his or her own use, or purchase or attempt to purchase or have another purchase for him or her, any alcoholic beverage by the drink; no person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages by the drink; no person under 21 years of age shall misrepresent his or her age for the purpose of inducing any licensee or other employee to sell or serve any alcoholic beverages to such person. No person under 21 years of age shall use or attempt to use any false, fraudulent or altered identification card or paper or any document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(Ord. 3-1990, passed 2-12-90)

§ 113.56 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

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

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

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

(2) Prior to the discontinuance of the business at the licensed premises or immediately thereupon if such is due to an act of God, the city licensee delivers to the City ABC Administrator a written statement signed by the City Licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the licensed premises for any of the causes or reasons described herein. (Ord. 3-1990, passed 2-12-90)

§ 113.57 SALES TO BE CONDUCTED OPENLY.

No person holding a license under the provision of this chapter shall sell any alcoholic beverages behind blinds or screens. All sales shall be conducted openly and without any attempt to hide them or screen them from public view. (Ord. 3-1990, passed 2-12-90)

ADMINISTRATION AND ENFORCEMENT

§ 113.70 RIGHT OF ENTRY.

Search and Seizure. Every applicant procuring a license hereby consents to the entry of police or other duly authorized representatives of the city or state at all reasonable hours for the purpose of inspection and search and consents to the removal from the premises of all things and articles there had in violation of city ordinances or state laws, and consents to the introduction of those things and articles in evidence in any prosecution that may be brought for those offenses.

(Ord. 3-1990, passed 2-12-90)

§ 113.71 SUSPENSION, REVOCATION OF LICENSE.

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

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

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

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

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

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\$1,000 per day. Wholesale liquor licensees: \$400 per day. Wholesale beer licensee, \$100 per day; retail drink liquor licensees, \$25 per day; retail package liquor licenses, \$25 per day; retail beer licensees, \$10 per day; and all remaining licenses, \$10 per day.

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City ABC Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance or occurrence and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard. The hearing shall be conducted by the City ABC Administrator in the city and according to the procedures herein specified for hearings, and in accordance to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City ABC Administrator. The City ABC Administrator shall control and make all decisions in regard to the introductions of evidence and shall hear all arguments in regard thereto. At the conclusions of the hearing, the City ABC Administrator shall issue a written decision in regard thereto and mail a certified copy to the licensee at the address of the licensed premises by certified mail or registered mail.
(Ord. 3-1990, passed 2-12-90)

§ 113.99 PENALTY.

The following penalties shall be in addition to any criminal prosecution instituted in the Nicholas District or Circuit Court against any alleged violator and fines hereunder shall be payable to the City ABC Administrator:

(A) Any person, firm or corporation that holds a license for the retail sale of alcoholic beverages who knowingly provides, by sale or gift, directly or indirectly, alcoholic beverages for the use or consumption by anyone under the age of 21 years, shall for the first offense, be fined in the sum of \$500, and shall have his license suspended for a period of seven days; and for the second offense, his license shall be suspended for a period of fourteen days, and he shall forfeit his bond made at application for the license; and for the third offense shall be subject to a fine of \$2,000 and revocation of his license.

(B) Any person 21 years of age or older, not being a licensee, who shall provide, by sale or gift, alcoholic beverages for the use and consumption by person or persons under the age of 21 years shall be fined, for each offense, the sum of \$500.

(C) Any person who violates any provision of this chapter for which a penalty is not otherwise provided, shall be fined not less than \$10 or more than \$500, or imprisoned in the county jail for not more than six months, or both.

(Ord. 3-1990, passed 2-12-90)

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